CITY AND COUNTY OF SAN FRANCISCO MUNICIPAL CODE

ENVIRONMENT CODE



MUNICIPAL CODE CORPORATION

Tallahassee, Florida 2006

CITY AND COUNTY OF SAN FRANCISCO

MUNICIPAL CODE

Charter
Administrative Code
Building and Related Technical Codes
Business and Tax Regulations Code
Campaign and Governmental Conduct Code
Environment Code
Fire Code
Health Code
Municipal Elections Code
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Supp. No. 1, September 2006

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PREFACE TO THE

ENVIRONMENT CODE

On July 3, 2003, the Board of Supervisors and the Mayor adopted this Municipal Environment Code. The Environment Code was developed to consolidate the City's ordinances governing protection of the environment, natural resources and sustainability that were previously scattered throughout the Administrative Code.

The San Francisco Municipal Code contains ordinances enacted through Ordinance 75-08, File Number 071531, Approved May 9, 2008. A legislative history, containing ordinance number and approval date, is located at the conclusion of most sections. The legislative history of ordinances approved after March 1999 also contain Board of Supervisors file numbers.

ENVIRONMENT CODE

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CHAPTER 1: PRECAUTIONARY PRINCIPLE POLICY STATEMENT

Sec. 100. Findings.
Sec. 101. The San Francisco Precautionary Principle.
Sec. 102. Three Year Review.
Sec. 103. List of All Environmental Ordinances and Resolutions.
Sec. 104. City Undertaking Limited to Promotion of General Welfare.

SEC. 100. FINDINGS.

The Board of Supervisors finds and declares that:

A. Every San Franciscan has an equal right to a healthy and safe environment. This requires that our air, water, land, and food be of a sufficiently high standard that individuals and communities can live healthy, fulfilling, and dignified lives. The duty to enhance, protect and preserve San Francisco's environment rests on the shoulders of government, residents, citizen groups and businesses alike.

B. Historically, environmentally harmful activities have only been stopped after they have manifested extreme environmental degradation or exposed people to harm. In the case of PCBs, DDT, lead, and asbestos, for instance, regulatory action took place only after disaster had struck. The delay between first knowledge of harm and appropriate action to deal with it can be measured in human lives cut short.

C. San Francisco is a leader in making choices based on the least environmentally harmful alternatives, thereby challenging traditional assumptions about risk management. Numerous City ordinances including: the Integrated Pest Management Ordinance, the Resource Efficient Building Ordinance, the Healthy Air Ordinance, the Resource Conservation Ordinance, and the Environmentally Preferable Purchasing Ordinance apply a precautionary approach to specific City purchases and activities. Internationally, this model is called the Precautionary Principle.

D. As the City consolidates existing environmental laws into a single Environment Code, and builds a framework for future legislation, the Precautionary Principle approach will serve as a policy framework to develop and implement laws for a healthier and more just San Francisco. In this way, the City will create and maintain a healthy, viable Bay Area environmental for current and future generations, and will become a model of sustainability.

E. Science and technology are creating new solutions to prevent or mitigate environmental problems. However, science is also creating new compounds and chemicals that are already finding their way into mother's milk and causing other new problems. New legislation may be required to address these situations, and the Precautionary Principle is intended as a tool to help promote environmentally healthy alternatives while weeding out the negative and often unintended consequences of new technologies.

F. A central element of the precautionary approach is the careful assessment of available alternatives using the best available science. An alternatives assessment examines a broad range of options in order to present the public with the consequences of each approach. The process takes short-term versus long-term effects or costs into consideration, and evaluates and compares the adverse or potentially adverse effects of each option, giving preference to those options with fewer potential hazards. This process allows fundamental questions to be asked: "Is this potentially hazardous activity necessary?" "What less hazardous options are available?" and "How little damage is possible?"

G. The alternatives assessment is also a public process because, locally or internationally, the public bears the ecological and health consequences of environmental decisions. A government's course of action is necessarily enriched by broadly based public participation when a full range of alternatives is considered based

on input from diverse individuals and groups. The public should be able to determine the range of specific alternatives to be examined. For each alternative the public should consider both immediate and long-term consequences, as well as possible impacts to the local economy.

H. This form of open decision-making is in line with San Francisco's historic Sunshine Act, which allows citizens to have full view of the legislative process. One of the goals of the Precautionary Principle is to include citizens as equal partners in decisions affecting their health and environment.

I. San Francisco looks forward to the time when the City's power is generated from renewable sources, when all our waste is recycled, when our vehicles produce only potable water as emissions, when the Bay is free from toxins, and the oceans are free from pollutants. The Precautionary Principle provides a means to help us attain these goals as we evaluate future laws and policies in such areas as transportation, construction, land use, planning, water, energy, health care, recreation, purchasing, and public expenditure.

J. Transforming our society to realize these goals and achieving a society living respectfully with the bounds of nature will take a behavioral as well as technological revolution. The Precautionary approach to decision-making will help San Francisco speed this process of change by moving beyond finding cures for environmental ills to preventing the ills before they can do harm. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 101. THE SAN FRANCISCO PRECAUTIONARY PRINCIPLE.

The following shall constitute the City and County of San Francisco's Precautionary Principle policy. All officers, boards, commission, and departments of the City and County shall implement the Precautionary Principle in conducting the City and County's affairs:

The Precautionary Principle requires a thorough exploration and a careful analysis of a wide range of alternatives. Based on the best available science, the Precautionary Principle requires the selection of the alternative that presents the least potential treat to human health and the City's natural systems. Public participation and an open and transparent decision making process are critical to finding and selecting alternatives.

Where threats of serious or irreversible damage to people or nature exist, lack of full scientific certainty about cause and effect shall not be viewed as sufficient reason for the City to postpone cost effective measures to prevent the degradation of the environment or protect the health of its citizens. Any gaps in scientific data uncovered by the examination of alternatives will provide a guidepost for future research, but will not prevent the City from taking protective action. As new scientific data become available, the City will review its decisions and make adjustments when warranted.

Where there are reasonable grounds for concern, the precautionary approach to decision-making is meant to help reduce harm by triggering a process to select the least potential threat. The key elements of the Precautionary Principle approach to decision-making include:

1. Anticipatory Action: There is a duty to take anticipatory action to prevent harm. Government, business, and community groups, as well as the general public, share this responsibility.

2. Right to Know: The community has a right to know complete and accurate information on potential human health and environmental impacts associated with the selection of products, services, operations or plans. The burden to supply this information lies with the proponent, not with the general public.

3. Alternatives Assessment: An obligation exists to examine a full range of alternatives and select the alternative with the least potential impact on human health and the environment including the alternative of doing nothing.

4. Full Cost Accounting: When evaluating potential alternatives, there is a duty to consider all the reasonably foreseeable costs, including raw materials, manufacturing, transportation,

use, cleanup, eventual disposal, and health costs even if such costs are not reflected in the initial price. Short- and long-term benefits and time thresholds should be considered when making decisions.

5. Participatory Decision Process: Decisions applying the Precautionary Principle must be transparent, participatory, and informed by the best available science and other relevant information. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 102. THREE YEAR REVIEW.

No later than three years from the effective date of this ordinance, and after a public hearing, the Commission on the Environment shall submit a report to the Board of Supervisors on the effectiveness of the Precautionary Principle policy. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 103. LIST OF ALL ENVIRONMENTAL ORDINANCES AND RESOLUTIONS.

The Director of the Department of the Environment shall produce and maintain a list of all City and County of San Francisco ordinances and resolutions which affect or relate to the environment and shall post this list on the Department of the Environment's website. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 104. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

The Board of Supervisors encourages all City employees and officials to take the precautionary principle into consideration and evaluate alternatives when taking actions that could impact health and the environment, especially where those actions could pose threats of serious harm or irreversible damage. This ordinance does not impose specific duties upon any City employee or official to take specific actions. In adopting and undertaking the enforcement of this ordinance, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury nor may this ordinance provide any basis for any other judicial relief including, but not limited to a writ of mandamus or an injunction. In adopting this Chapter, the Board of Supervisors does not intend to authorize or require the disclosure to the public of any proprietary information protected under the laws of the State of California. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

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CHAPTER 2: ENVIRONMENTALLY PREFERABLE PURCHASING ORDINANCE

Sec. 200. Findings.
Sec. 201. Goals.
Sec. 202. Definitions.
Sec. 203. Commission and Department of the Environment Duties.
Sec. 204. Applicability.
Sec. 205. Duties of City Departments.
Sec. 206. Waivers.
Sec. 207. Trade Secrets.
Sec. 208. Enforcement.
Sec. 209. Preemption.
Sec. 210. Severability.

SEC. 200. FINDINGS.

A. Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases of commodities and expenditures of public money are made in a manner consistent with its human health and environmental policies.

B. The results of a three year pilot study implementing environmentally preferable purchasing for City departments demonstrated the feasibility of developing relevant human health and environmental selection criteria for products used to maintain City buildings and vehicle fleets. The pilot program further demonstrated that products meeting these criteria are available, cost competitive, and effective at meeting the City's performance standards. It is the City's intention that ultimately there will be environmentally preferable alternatives for each commodity regularly purchased by the City.

C. The Precautionary Principle calls for full disclosure by manufacturers and suppliers so the most protective standard can be applied in the comparison of potential alternatives. Only the *full* disclosure of ingredients and impacts of the products and services will allow the City to make informed and protective decisions. For example, suppliers of pesticides should disclose the "inert" ingredients in products used on City property instead of limiting disclosure to the legal requirement of "active" ingredients which may make up less than 1% of the product.

D. The Precautionary Principle calls for a participatory and transparent process in the evaluation and selection of potential alternatives. Participation in decision-making by impacted communities is a basic tenet of the Precautionary Principle.

Citizens of San Francisco enacted the Sunshine Ordinance to ensure transparency in City government; the Commission on the Environment operates under the mandates of the Sunshine Ordinance in addition to the requirements of the Brown Act and Public Records Act. Above and beyond that, deliberations and decisions under this ordinance made in accordance with the Public Participation Guidelines shall be made in concert with affected community members; community involvement is as central to the process as data gathering and expert advice.

E. Purchases of commodities made by the City and County of San Francisco that are consistent with the Precautionary Principle will encourage market development of new, healthy, environmentally preferable technologies and products and will demonstrate the efficacy of this approach to other government agencies, residents and businesses which will help generate regional demand for healthy products, a healthy way of doing business, product innovation, and business development and competition.

F. Implementing the Precautionary Principle is both good science and good economics. Precautionary action benefits workers, stimulates innovation and supports timely action to avoid costs to public health and the environment. Precautionary business practice leads to expanded local production, job creation and the

development of technologies that support job creation in the area of environmentally preferable products. To this end, the Department of the Environment, the Small Business Commission, the Office of Contract Administration and the Human Rights Commission will work together to ensure that there is sufficient outreach, education and training provided to disadvantaged businesses in order to create equitable access and competition for city contracts affected by precautionary purchasing.

G. Many of the City's purchasing decisions have impacts across departmental boundaries. Therefore, interdepartmental cooperation is a key element to a successful precautionary purchasing program. City staff must work closely together to create opportunities for the exchange of ideas and the flow of information between departments and the larger community. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 200 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.1; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 201. GOALS.

The purpose of this Chapter is to reduce negative impacts to human health and the environment through the development of specifications for City purchases that:

1. Reduce occupational health hazards for City staff as well as reduce exposure of City residents and visitors to potentially toxic chemicals by purchasing products for use in City operations that do not harm human health or the environment;

2. Reduce San Francisco's contribution to global climate change by purchasing products that lead to a reduction in greenhouse gas emissions from Commodities;

3. Improve the air quality for San Francisco residents and visitors by purchasing vehicles and motorized equipment that minimize emissions of air pollutants;

4. Protect the quality of San Francisco's ground and surface waters by eliminating the use of chemicals known to contaminate local water resources through toxicity, bioaccumulation or persistence; and

5. Preserve resources locally and globally through purchasing practices that include:

(i) Maximizing water and energy efficiency and favoring renewable energy sources;

(ii) Maximizing post consumer recycled content and readily recyclable or compostable materials;

(iii) Favoring long-term use through product durability, repairability, and refuse; and

(iv) Considering life cycle economics of a product that includes manufacture, transportation, use and disposal. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 201 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.2; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 202. DEFINITIONS.

Unless otherwise defined below, words in this Chapter shall have the same meanings as those words in Chapter 21 of the Administrative Code.

(a) "Approved Alternatives List" shall mean the list of alternatives to a product in a Targeted Product Category identified, evaluated and approved by the Director. Products on an Approved Alternatives List will have a lesser impact on human health and the environment compared to other similar products, consistent with the Precautionary Principle as defined in Chapter 1 of the Environment Code.

(b) "Commission" shall mean the Commission on the Environment established by Charter section 4.118.

(c) "Contract" shall mean an agreement with a nongovernmental entity for the purchase of Commodities at the expense of or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County of San Francisco. The term

"Contract" shall include a purchase order or other written instrument for the purchase of Commodities.

(d) "Contractor or Contracting Party" shall mean a person that enters into a Contract with the City.

(e) "Department" shall mean the Department of the Environment established by Charter section 4.118.

(f) "Director" shall mean the Director of the Department of the Environment.

(g) "Targeted Product Category" shall mean a broad category of products routinely purchased by the City which have been identified by the Commission as having undesirable environmental health impacts for which alternative products should be identified and substituted. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 202 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.3; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 203. COMMISSION AND DEPARTMENT OF THE ENVIRONMENT DUTIES.

(a) **Public Participation Guidelines.** In order to promote meaningful public participation, after consultation with technical experts, individuals with expertise in environmental protection or environmental health, community groups and the public, and not later than 90 days from the effective date of this Chapter, the Director shall, at a public meeting, adopt Public Participation Guidelines for use in making designated decisions under this Chapter. Amendments to the Public Participation Guidelines may be made by the Director in the same manner.

(b) **Targeted Product Categories.**

(i) Not later than 210 days from the effective date of this Chapter and regularly thereafter, the Director, in accordance with the Public Participation Guidelines, will consult with the Director of the Department of Public Health, the City Purchaser, City department users, technical experts, individuals with expertise in environmental protection or environmental health, community groups, labor representatives and the public to develop and present recommendations for Targeted Product Categories to the Commission on the Environment.

(ii) Not later than 270 days from the effective date of this Chapter and regularly thereafter, the Commission on the Environment will designate Targeted Product Categories at a public meeting.

(c) **Approved Alternatives List for Targeted Product Categories.**

(i) **Criteria.** For each Targeted Product Category, the Director, in accordance with the Public Participation Guidelines, will consult with the Director of the Department of Public Health, the City Purchaser, City department users, technical experts, including individuals with expertise in environmental protection or environmental health, community groups, other governmental entities, and the public to develop a comprehensive set of substantive and qualitative human health and environmental criteria by which to evaluate products in a Targeted Product Category. Criteria will be designed to effectuate the goals stated in Section 201 and will take into account non-local impacts for which information is available. The following factors may be considered in establishing the criteria: human health impacts and environmental impacts and threats of harm to human health or the environment. This includes, but is not limited to: greenhouse gas and air pollution emissions; transportation impacts; groundwater and surface water contamination; water and energy efficiency; renewable energy sources; recycled content; durability; and ability to recycle, refuse or compost. The Director will adopt criteria for each Target Product Category. The Director will post the criteria for each Target Product Category on the Department's website.

The Director, in accordance with the Public Participation Guidelines, will regularly review and revise the criteria to reflect the current state of scientific knowledge regarding health and environmental effects.

(ii) **Evaluation and Adoption.** The Director shall create an Approved Alternatives List for each Targeted Product Category either by: objec-

tively evaluating each potential alternative within a targeted product category based on the criteria or through a bid or solicitation based on the criteria issued by the Office of Contract Administration or other relevant department. The Director will present the Approved Alternatives List and any subsequent revisions to the Commission at a public meeting and shall notify all City departments of adoption or revision of an Approved Alternatives List.

(iii) The Director shall respond within 90 days to any written request to include a particular product on the Approved Alternatives List.

(iv) The Approved Alternatives List for each Targeted Product Category shall indicate where each included commodity is produced. In making a purchase decision, the City Purchaser and City department users, after considering other relevant factors such as cost, may at his or her discretion give priority to commodities produced within the geographic boundaries of the City.

(d) **Rules and Regulations.** After a public hearing, the Director, in consultation with the Purchaser, may promulgate rules, regulations or guidelines as required by this Chapter or as necessary or appropriate to carry out the purposes and requirements of this Chapter and may adopt forms necessary to implement this Chapter.

(e) **Training.** The Director shall implement ongoing training for City employees and contractors for the purpose of compliance with this Chapter and provide ongoing training to industrial health and safety officers, environmental staff, contracting officers and others involved in purchasing decisions and product use.

(f) **Presentation to Board of Supervisors.** Not later than 15 months from the effective date of this Chapter, the Director will notify Clerk of the Board of Supervisors that the Department is prepared to deliver its presentation and ask the Clerk to work with the President of the Board of Supervisors to calendar the presentation for the appropriate Board committee.

(g) **Annual Review and Report to Commission and Board of Supervisors.** Not later than twenty-four months from the effective date of this Chapter, and annually thereafter in February, the Director shall submit a report to the Commission and the Board of Supervisors on the progress of City departments towards full compliance with this Chapter. The annual report shall include:

(i) an evaluation of the progress in meeting the goals in Section 201;

(ii) the status and effectiveness of current efforts by City departments to implement this Chapter and additional specific actions, including legislation, needed to effectively implement this Chapter;

(iii) a summary of the annual reports submitted by City departments pursuant to section 205(b) and a list of waivers granted by the Purchaser during the previous period organized by department.

(iv) an update on the extent and efficacy of training programs for users and purchasers of Targeted Products;

(v) a workplan for the next reporting period with specific goals, actions and timelines necessary to implement this Chapter; and

(vi) The annual report required by this section shall include a recommendation by the Director, after consultation with City Departments and the public, on how to expand this Chapter to City contractors. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.4; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 204. APPLICABILITY.

This Chapter applies only to Contracts for the procurement of Commodities as governed by Chapter 21 of the Administrative Code. Once the Director has adopted an Approved Alternatives List for a product within a Targeted Product Category, each City department entering into a new Contract or extending the term of an existing Contract for the purchase of that product

shall only purchase products from the Approved Alternatives List. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 204 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.5; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 205. DUTIES OF CITY DEPARTMENTS.

(a) Each City department, board and commission subject to this Chapter shall cooperate with and provide in writing to the Director all information necessary or the Director to carry out her or his duties under this Chapter. Appropriate City department personnel will attend training offered by the Director.

(b) Not later than twenty months from the effective date of this Chapter, and annually thereafter in December, each City department that purchases Target Products shall provide a report to the Director including the following information:

(i) A list of Contracts, including the amount spent and actual quantities purchased (to the extent feasible), issued for products in each Targeted Product Category in the prior period.

(ii) A summary of any waivers from this Chapter in the prior period.

(c) In addition to these obligations, each City department shall use its best efforts to incorporate Commodities from the Approved Alternatives List into existing Contracts. If the City department is unable to amend an existing Contract, the City department is authorized to enter into another Contract to procure such products, provided that the City department complies with all other applicable laws. Nothing in this Chapter is or shall be interpreted to require or authorize any City department to breach the terms of a Contract. Each City department shall document its efforts pursuant to this Section in the annual report filed under Subsection (b), explaining the circumstances. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 205 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.6; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 206. WAIVERS.

The application for a waiver shall be filed on a form specified by the Purchaser. The waiver application will be sent electronically to any person who requests such notification. The Purchaser will consult with the Director on the waiver application and shall respond to the requesting department within 5 days of receipt of a waiver application. Waivers may be issued for up to the term of the Contract. Waivers from the requirements of this Chapter are available under the following circumstances:

(a) **Emergency.** A City department may grant itself a waiver from this Chapter when the purchase of a Commodity is necessary to respond to an emergency which meets the criteria set forth in section 21.15(a) of the Administrative Code. In such case, the Director of the City department shall within two business days notify the Purchaser in writing of the emergency that prevented compliance with this Chapter, disclose the use and intensity of use of the product, describe steps being taken to safeguard public and City employee health during the emergency use and explain how such an emergency will be avoided in the future.

(b) **Performance Standards.** A City department may request a waiver from this Chapter from the Purchaser when no product on the Approved Alternatives List meets departmental performance standards. The Purchaser shall grant a waiver upon a showing that the requesting department has:

(i) thoroughly tested each product on the Approved Alternatives List and none meet the department's performance standards (including timely availability); and

(ii) disclosed the use and intensity of use for the product and developed a reasonable plan to minimize use of the selected product and/or protect employees and public from exposure; and

(iii) provide a written memorandum detailing all attempts to explore and utilize listed alternatives to the selected product within the waiver period.

(c) **Cost Prohibitive.** A City department may request a waiver from this Chapter from the Purchaser when every product on the Approved Alternatives List is cost prohibitive. The Purchaser shall grant a waiver upon a showing that the requesting department has:

(i) demonstrated that each product on the Approved Alternatives List is cost prohibitive while taking into account the goals set forth in Section 201; and

(ii) disclosed the use and intensity of use for the product and developed a reasonable plan to minimize use of the selected product and/or protect employees and public from exposure; and

(iii) provide a written memorandum detailing all attempts to explore and utilize listed alternatives to the selected product within the waiver period.

(d) **Other.** The Purchaser may determine that a waiver should be granted upon a showing that the requesting department has demonstrated a reasonable basis for a waiver and developed a reasonable plan to minimize use of the selected product and/or protect employees and public from exposure and to investigate alternatives to the selected product during the waiver period.

(e) The Purchaser shall report on waivers granted to the Director and the Director shall report to the Commission at its next public meeting on:

(i) the product for which a City department obtained a waiver;

(ii) the proposed use and intensity of the product being used and the reason for the waiver;

(iii) steps being taken to safeguard public and City employee health during the waiver period; and

(iv) other waivers granted to that department.

(f) The Purchaser and the Director shall maintain and post a list of all waivers on their Departments' websites organized by department and shall mail the list to any person who requests such list. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 206 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.7; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 207. TRADE SECRETS.

(a) If a person believes that any in information required to be reported or disclosed by this Chapter contains a trade secret, the person shall provide the information to the Director, the Purchaser (Office of Contract Administration) and other City departments requiring such information and shall notify the City in writing of that belief, detailing the basis of the belief as to each specific item of information the person claims is a trade secret and identifying the specific statute or judicial authority under which the claim is made. The person submitting the trade secret shall submit two forms of information: one with the trade secret information clearly marked and one prominently marked "public" with the trade secrets redacted. For purposes of this Chapter, "trade secret" shall have the same meaning as it has under state law. The person designating information as a trade secret shall specify a name and street address for notification purposes and shall be responsible for updating such information. The City shall not disclose am properly substantiated trade secret which is so designated by a person except as required by this Chapter or as otherwise required by law.

(b) Information designated as trade secret may be disclosed to an officer or employee of the City and County of San Francisco, the State of California, or the United States of America for use in connection with the official duties of such officer or employee acting under authority of law for the protection of health, without liability on the part of the City.

(c) When the Director or other City official or employee receives a request for information that has been designated as, or which the City determines may be, a trade secret, the City shall notify the person or business of the request. The City may request further evidence or explana-

tion from the person as to why the information requested is a trade secret. If the City determines that the information does not constitute a trade secret, the City shall notify the person or business of that conclusion and that the information will be released by a specified date in order to provide the person or business the opportunity to obtain a court order prohibiting disclosure.

(d) In adopting this Chapter, the Board of Supervisors does not intend to authorize or require the disclosure to the public of any trade secrets protected under the laws of the State of California.

(e) This Section is not intended to empower a person or business to refuse to disclose any information, including but not limited to trade secrets, to the Director or other City Departments required under this Chapter.

(f) Notwithstanding any other provision of this Chapter, any officer or employee of the City and County of San Francisco, or former officer or employee or contractor with the City or employee thereof, who by virtue of such employment of official position has obtained possession or has had access to information, the disclosure of which is prohibited by this Section, and who, knowing that disclosure of the information is prohibited, knowingly and willfully discloses the information in any manner to any person or business not entitled to receive it, shall be guilty of a misdemeanor. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 207 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.8; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 208. ENFORCEMENT.

Whenever any City department finds, after an investigation by the contracting officer and the City Attorney, that a person or entity being considered for a Contract or under Contract with the City has, in connection with the bidding, execution or performance of any Contract:

(1) Falsely represented to the City the nature or character of the Commodities offered, used or supplied under the Contract; or

(2) Knowingly provided the City with Commodities in violation of this Chapter or the rules or regulations adopted pursuant to this Chapter,

the contracting officer shall have the authority to impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this Chapter. For purposes of this subsection, knowingly has the same meaning as in Chapter 6, Section 6.83 of the Administrative Code.

The City may take any enforcement action authorized by Chapters 21 or 28 of the Administrative Code, including, without limitation, department.

Nothing in this Chapter shall be construed to relieve a Contractor of responsibility for providing a satisfactory product. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 208 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.9; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 209. PREEMPTION.

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 209 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.10; added by Ord. 121-99, File No. 990405, App. 5/21/99)

SEC. 210. SEVERABILITY.

In the event that a court or agency of competent jurisdiction holds that a federal or state law, rule or regulation invalidates any clause, sentence, paragraph or section of this ordinance or the application thereof to any person or circumstances, it is the intent of the Board of Supervisors that the court or agency sever such clause,

sentence, paragraph or section so that the remainder of this ordinance shall remain in effect. (Added by Ord. 115-05, File No. 050595, App. 6/17/2005) (Former Sec. 210 added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05; Derivation Former Administrative Code Section 21F.11; added by Ord. 121-99, File No. 990405, App. 5/21/99)

CHAPTER 3: INTEGRATED PEST MANAGEMENT PROGRAM

Sec. 300.	Purpose and Findings.
Sec. 301.	Definitions.
Sec. 302.	Ban on Use of Toxicity Category I and Certain Other Pesticides.
Sec. 303.	Ban on Use of Toxicity Category II Pesticide Products; Total Pesticide Ban.
Sec. 304.	Notice of Pesticide Use.
Sec. 305.	Implementation of City Integrated Pest Management Policy.
Sec. 306.	Recordkeeping and Reporting.
Sec. 307.	Exemptions.
Sec. 308.	City Contracts.
Sec. 309.	Guidelines.

SEC. 300. PURPOSE AND FINDINGS.

(a) The Board of Supervisors hereby finds and declares that it shall be the policy of the City and County of San Francisco for City departments and City contractors who apply pesticides to City property to eliminate or reduce pesticide applications on City property to the maximum extent feasible.

(b) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with integrated pest management policies and practices.

(c) This Chapter 3 concerns the application of pesticides to property owned by the City and County of San Francisco only, and does not concern the application of pesticides to property that is not owned by the City and County of San Francisco.

(d) City departments shall implement the following City Integrated Pest Management (IPM) Policy:

CITY INTEGRATED PEST MANAGEMENT POLICY

The City, in carrying out its operations, shall assume pesticides are potentially hazardous to human and environmental health. City departments shall give preference to reasonably available nonpesticide alternatives when considering the use of pesticides on City property. For all pest problems on City property, City departments shall follow the integrated pest management (IPM) approach outlined below.

(1) Monitor each pest ecosystem to determine pest population, size, occurrence, and natural enemy population, if present. Identify decisions and practices that could affect pest populations. Keep records of such monitoring;

(2) Set for each pest at each site and identify in an IPM implementation plan, an injury level, based on how much biological, aesthetic or economic damage the site can tolerate;

(3) Consider a range of potential treatments for the pest problem. Employ nonpesticide management tactics first. Consider the use of chemicals only as a last resort and select and use chemicals only within an IPM program and in accordance with the provisions of this Chapter.

(A) Determine the most effective treatment time, based on pest biology and other variables, such as weather, seasonal changes in wildlife use and local conditions,

(B) Design and construct indoor and outdoor areas to reduce and eliminate pest habitats,

(C) Modify management practices, including watering, mulching, waste management, and food storage,

(D) Modify pest ecosystems to reduce food and living space,

(E) Use physical controls such as handweeding, traps and barriers,

(F) Use biological controls (introducing or enhancing pests' natural enemies);

(4) Conduct ongoing educational programs:

(A) Acquaint staff with pest biologies, the IPM approach, new pest management strategies as they become known, and toxicology of pesticides proposed for use,

(B) Inform the public of the City's attempt to reduce pesticide use and respond to questions from the public about the City's pest management practices;

(5) Monitor treatment to evaluate effectiveness. Keep monitoring records and include them in the IPM implementation plan.

(e) Nothing in this Chapter is intended to apply to pesticide applications that are required to comply with federal, State or local laws or regulations.

(f) This Chapter applies the Precautionary Principle to the selection of reduced risk pesticides and other pest management techniques on City property with the intent of minimizing negative impacts on human health and the environment. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.1; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 301. DEFINITIONS.

Whenever used in this Chapter, the following terms shall have the meanings set forth below.

(a) "City department" means any department of the City and County of San Francisco and includes any pesticide applicator hired by a City department to apply pesticides on City property. City department does not include any other local agency or any federal or State agency, including but not limited to the San Francisco School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.

(b) "Commission" means the Commission on the Environment provided for by San Francisco Charter Section 4.118.

(c) "Contract" means a binding written agreement, including but not limited to a contract, lease, permit, license or easement between a person, firm, corporation or other entity, including a governmental entity, and a City department, which grants a right to use or occupy property of the City and County of San Francisco for a specified purpose or purposes.

(d) "Contractor" means a person, firm, corporation or other entity, including a governmental entity, that enters into a contract with a City department.

(e) "Department" means the Department of the Environment provided for by San Francisco Charter Section 4.118.

(f) "Integrated pest management" means a decision-making process for managing pests that uses monitoring to determine pest injury levels and combines biological, cultural, physical, and chemical tools to minimize health, environmental and financial risks. The method uses extensive knowledge about pests, such as infestation thresholds, life histories, environmental requirements and natural enemies to complement and facilitate biological and other natural control of pests. The method uses the least toxic synthetic pesticides only as a last resort to controlling pests.

(g) "Pesticide" means pesticide as defined in Section 12753 of Chapter 2 of Division 7 of the California Food and Agricultural Code, but does not include antimicrobial agents. "Antimicrobial agents" means any substance or mixture of substances intended for inhibiting the growth of or destroying any bacteria, fungi pathogenic to human and other animals, or viruses declared to be pests under Section 12754.5 of the California Food and Agricultural Code, except slime control agents, substances intended for the use in or on humans or other animals, and use in or on processed food, beverages, or pharmaceuticals. Antimicrobial Agents include, but are not limited to, disinfectants, sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to raw materials or manufactured products.

(h) "Toxicity Category I Pesticide Product" means any pesticide product that meets United States Environmental Protection Agency criteria

for Toxicity Category I under Section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations.

(i) "Toxicity Category II Pesticide Product" means any pesticide product that meets United States Environmental Protection Agency criteria for Toxicity Category II under Section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.2; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 361-98, App. 12/11/98; Ord. 2-00, File No. 992000, App. 1/13/2000)

SEC. 302. BAN ON USE OF TOXICITY CATEGORY I AND CERTAIN OTHER PESTICIDES.

Except for pesticides granted an exemption pursuant to Section 307, effective January 1, 1997, no City department shall use any Toxicity Category I Pesticide Product, any pesticide containing a chemical identified by the State of California as a chemical known to the State to cause cancer or reproductive toxicity pursuant to the California Safe Drinking Water and Toxic Enforcement Act of 1986, and any pesticide classified as a human carcinogen, probable human carcinogen or possible human carcinogen by the United States Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.3; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 303. BAN ON USE OF TOXICITY CATEGORY II PESTICIDE PRODUCTS; TOTAL PESTICIDE BAN.

(a) Except for pesticides granted an exemption pursuant to Section 307, effective January 1, 1998, no City department shall use any Toxicity Category II Pesticide Product.

(b) Except for pesticides granted an exemption pursuant to Section 307, by January 1, 2000, any City department that uses one or more pesticides not banned under Section 302 or Section 303(a), shall reduce by 100 percent the cumulative volume of such pesticides that it used in calendar year 1996. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.4; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 304. NOTICE OF PESTICIDE USE.

(a) Except as provided in Subdivisions (b) through (e) hereof, within 120 days of the effective date of this ordinance, any City department that uses any pesticide shall comply with the following notification procedures:

(1) Signs shall be posted at least three days before application of the pesticide product and remain posted at least four days after application of the pesticide.

(2) Signs shall be posted (i) at every entry point where the pesticide is applied if the pesticide is applied in an enclosed area, and (ii) in highly visible locations around the perimeter of the area where the pesticide is applied if the pesticide is applied in an open area.

(3) Signs shall be of a standardized design that are easily recognizable to the public and workers.

(4) Signs shall contain the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the date for re-entry to the area treated, and the name and contact number for the City department responsible for the application.

(b) City departments shall not be required to post signs in accordance with Subsection (a) in right-of-way locations that the general public does not use for recreational purposes. However, each City department that uses pesticides in such right-of-way locations shall develop and maintain a public access telephone number about pesticide applications in the right-of-way areas. Information readily available by calling the public access number shall include for any pesticide that will be applied within the next three days or has been applied within the last four days: A description of the area of the pesticide applica-

tion, the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the re-entry period of the area treated and the name and contact number for the City department responsible for the application. Information about the public access telephone number shall be posted in a public location at the City department's main office building.

(c) City departments using baits or other pesticides granted an exemption by the Department pursuant to Subsection (e) shall not be required to post signs in accordance with Subsection (a). However, each City department that uses pesticidal baits or other pesticides granted an exemption by the Department pursuant to Subsection (e) shall post a permanent sign: (1) in each building or vehicle where such pesticides are used, (2) at the City department's main office or a similar location where the public obtains information regarding the building or vehicle, and (3) when such pesticides are used outdoors to control rats and other pests, in a conspicuous location outside of the area where they are used. The sign shall indicate the name and active ingredient of the pesticides used in and around the building or vehicle, the target pests, the signal word indicating the toxicity category of the pesticide product, the area or areas where the pesticides are commonly placed, and the contact number for the City department responsible for the application.

(d) City departments may obtain authorization from the Department to apply a pesticide without providing a three-day advance notification in the event of a public health emergency or to comply with worker safety requirements. Signs meeting the requirements of Subsection (a)(2) through Subsection (a)(4) shall be posted at the time of application and remain posted four days following the application.

(e) The Department may grant exemptions to the notification requirements for one-time pesticide uses and may authorize permanent changes in the way City departments notify the public about pesticide use in specific circumstances, upon a finding that good cause exists to allow an exemption to the notification requirements. Prior to granting an exemption pursuant to this subsection, the City department requesting the exemption shall identify the specific situations in which it is not possible to comply with the notification requirements and propose alternative notification procedures. The Department shall review and approve the alternative notification procedures. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.5; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 231-99, File No. 991246, App. 8/20/99; Ord. 2-00, File No. 992000, App. 1/13/2000)

SEC. 305. IMPLEMENTATION OF CITY INTEGRATED PEST MANAGEMENT POLICY.

(a) Within 90 days of the effective date of this ordinance each City department that uses pesticides shall submit to the Department a plan for implementing the City Integrated Pest Management (IPM) Policy. The Department may require periodic IPM plan updates. The IPM implementation plans and any periodic updates shall be consistent with the requirements of this Section and any guidelines developed by the Department pursuant to this Chapter.

(b) A City department IPM implementation plan shall outline the ways in which the City department shall comply with the City IPM Policy in Section 300(d). The City department IPM implementation plan shall include pesticide applications performed by pesticide applicators at the request of the City department. The IPM implementation plan shall contain a list of the types and quantities of chemicals used as of December 31, 1996, the types of pest problems, the alternatives adopted to date, alternatives proposed for adoption within the next six months, and the name of the IPM Coordinator for the City department.

(c) At the request of the Department, the Commission may determine that a City department's IPM implementation plan is not in conformity with the City IPM Policy. Upon a

determination of nonconformity, the City department shall submit a revised plan to the Department in accordance with a schedule established by the Commission.

(d) The Department shall assist City departments in implementing the City IPM Policy by developing public educational information about IPM plans and programs and the City's IPM Policy.

(e) The Department shall establish an IPM Policy implementation program to assist City departments in implementing the City IPM Policy. The Department shall establish a data bank of information concerning pesticide use by City departments and the efficacy of alternatives used by City departments. All City departments that use pesticides shall participate in the Department's program by:

(1) Identifying the types of pest problems that the City Department has;

(2) Identifying types and quantities of pesticides currently in use by the City department;

(3) Identifying the use of alternatives for banned pesticides;

(4) Designating City department contact personnel who are responsible for the service for which the pesticides are used to regularly assess the efficacy of alternatives and to act as a resource for other City departments; and

(5) Providing regular reports as required by the Department of the Environment on the City department's efforts to implement the City IPM Policy.

(f) The Department shall determine the cost of maintaining the IPM implementation program. The Department may request that the City departments that use pesticides provide work orders to the Department to cover the cost of maintaining the program.

(g) No later than July 1, 1997 and semi-annually thereafter, the Department shall report to the Commission on the status of City department efforts to implement the City IPM Policy. Such report shall include a summary of exemptions granted by the Department during the reporting period. The Department shall provide an annual report to the Board of Supervisors on the status of City department efforts. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.6; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 231-99, File No. 991246, App. 8/20/99; Ord. 2-00, File No. 992000, App. 1/13/2000)

SEC. 306. RECORDKEEPING AND REPORTING.

(a) Each City department that uses pesticides shall keep records of all pest management activities. Each record shall include the following information:

(1) The target pest;

(2) The type and quantity of pesticide used;

(3) The site of the pesticide application;

(4) The date the pesticide was used;

(5) The name of the pesticide applicator;

(6) The application equipment used;

(7) Prevention and other non-chemical methods of control used;

(8) Experimental efforts; and

(9) Exemptions granted by the Department pursuant to Section 304 or 307 for that application.

(b) Each City department that uses pesticides shall submit the pest management record required by Subsection (a) to the Department on a monthly basis. The Department may reduce the submittal frequency.

(c) Pest management records shall be made available to the public upon request in accordance with the provisions of the San Francisco Sunshine Ordinance, San Francisco Administrative Code, Chapter 67. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.7; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 2-00, File No. 992000, App. 1/13/2000)

SEC. 307. EXEMPTIONS.

(a) **Improving and maintaining water quality.** Notwithstanding any other provision of this Chapter, this Chapter shall not apply to the use of any pesticide for the purpose of improving or maintaining water quality at:

(1) Drinking water treatment plants;

(2) Wastewater treatment plants;

(3) Reservoirs; and

(4) Related collection, distribution and treatment facilities.

(b) **One-year exemptions.** A City department may apply to the Department for up to a one-year exemption from the pesticide ban imposed by Sections 302 or 303 for use of a particular pesticide for a particular use. The application for an exemption shall be filed on a form specified by the Department and shall be signed by the City department's IPM Coordinator. The Department of the Environment may grant the one-year exemption upon a finding that the City department has:

(1) Made a good-faith effort to find alternatives to the banned pesticide;

(2) Demonstrated that effective, economic alternatives to the banned pesticide do not exist for the particular use; and

(3) Developed a reasonable plan for investigating alternatives to the banned pesticide during the exemption period.

(c) **Limited use exemption.** A City department may apply to the Department for a limited use exemption for a particular pesticide banned pursuant to Section 302 or 303 and not covered by a one-year exemption. The application for an exemption shall be filed on a form specified by the Department and shall be signed by the City department's IPM Coordinator. The Department may grant a limited-use exemption provided that the Department finds that the City department will use the pesticide for a specific and limited purpose and for a short and defined period and the City department has identified a compelling need to use the pesticide.

(d) **Reduced-risk pesticide.** The Commission on the Environment may exempt a reduced-risk pesticide from the ban imposed by Section 303 upon a finding that the reduced-risk pesticide is commonly used as part of an IPM strategy. Based on recommendations by the Department, the Commission shall maintain a list of reduced-risk pesticides granted an exemption pursuant to this subsection. The Commission shall review the list annually and make necessary changes. The Commission may review and revise the list more frequently upon recommendation by the Department.

(e) **Emergency exemption.** A City department may apply to the Department for an emergency exemption in the event that an emergency pest outbreak poses an immediate threat to public health or significant economic damage will result from failure to use a pesticide banned pursuant to Section 302 or Section 303. The application for an exemption shall be filed on a form specified by the Department. The Department shall respond to the application in a timely manner. If the requesting department is unable to reach the Department, the departmental IPM Coordinator may authorize the one-time emergency use of the required pesticide. The department IPM Coordinator must notify the Department of the determination to use the pesticide by facsimile prior to its application in the event that the department IPM Coordinator is unable to reach the Department. Signs meeting the requirements of Subsection (a)(2) through Subsection (a)(4) shall be posted at the time of application and remain posted four days following the application. The Department may impose additional conditions for emergency applications. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.8; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 361-98, App. 12/11/98; Ord. 2-00, File No. 992000, App. 1/13/2000)

SEC. 308. CITY CONTRACTS.

(a) As of the effective date of this Section, when a City department enters into a new contract or extends the term of an existing contract, the contract shall obligate the contractor to comply with provisions of this Section 308(a):

(1) Effective January 1, 1998, the contractor shall comply with Sections 302, 304 and 306. In addition, effective January 1, 1998, the contractor shall submit to the City department an IPM implementation plan that lists the types and estimated quantities, to the extent possible, of pesticides that the contractor may need to apply to City property during its contract, outlines actions the contractor will take to meet the City IPM Policy in Section 300 to the extent feasible, and identifies the primary IPM contact for the contractor.

(2) Effective January 1, 1999, the contractor shall comply with Section 303(a).

(3) Effective January 1, 2000, the contractor shall comply with Section 303(b).

(b) As of the effective date of this Section, when a City department enters into a new contract or extends the term of an existing contract that authorizes a contractor to apply pesticides to City property, the City department shall submit an IPM implementation plan update to the Commission on the Environment that incorporates the pesticide usage of the contractor into the City department's IPM implementation plan.

(c) A contractor, or City department on behalf of a contractor, may apply for any exemption authorized under Section 307. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.9; added by Ord. 274-97, App. 7/3/97)

SEC. 309. GUIDELINES.

The Department of the Environment may issue guidelines to assist City departments in the implementation of this Chapter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 39.10; added by Ord. 274-97, App. 7/3/97)

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CHAPTER 4: HEALTHY AIR AND SMOG PREVENTION

Sec. 400.	Findings and Purpose.
Sec. 401.	Definitions.
Sec. 402.	Clean Air Program Establishment, Duties and Funding.
Sec. 403.	[Reserved]
Sec. 404.	Alternative Fuel Infrastructure.
Sec. 405.	Electric Vehicle Charging Infrastructure.
Sec. 406.	Procurement of Vehicles by City Departments.
Sec. 407.	Operation of Bi-Fuel Vehicle.
Sec. 408.	Department of Public Transportation Buses and Trolley Buses.
Sec. 409.	Regional Public Sector and Private Sector Fleets.
Sec. 410.	San Francisco Municipal Railway Buses.
Sec. 411.	Clean Construction Assistance and Reporting.

SEC. 400. FINDINGS AND PURPOSE.

The Board of Supervisors finds that:

(a) Industries, automobiles, and natural sources all contribute to a significant air pollution problem in the Bay Area. While air pollution in the Bay Area has decreased since its peak in 1969, the growth in population, increase in industrial development, and in particular, the dramatic increase in vehicles and vehicle miles traveled, threaten to overcome the air quality successes to date.

(b) Air pollution is a major public health concern in the United States. The American Lung Association estimates the nationwide health costs of air pollution to be in the billions of dollars. According to the United States Public Health Service, high levels of air pollution can cause or aggravate lung illnesses such as acute respiratory infections, asthma, chronic bronchitis, emphysema, and lung cancer. Coughing, wheezing, chest pain, eye irritation, and headaches are common reactions to air pollution. Children, the elderly, athletes, and people with compromised immune systems suffer the worst health problems caused by poor air quality. In these sensitive groups, poor air quality causes more significant health impacts such as breathing difficulties, weakening of the body's ability to resist disease, and hindering the development of lung capacity among children.

(c) A recent federal study found that long-term exposure to air pollution in the four (4) Bay Area counties could cause 208 additional cases of cancer for every million residents, which is 208 times greater than the acceptable risk of cancer caused by air pollution as established by the Clean Air Act of 1990. The study concludes that most of the cancer risk is attributable to two chemicals contained in vehicle exhaust-benzene, a component of gasoline, and butadiene, a by-product of fuel combustion. This study is significant because it calculated the cancer risks based on the air that people actually breathe, rather than on computer models.

(d) Air pollution causes other significant economic costs. These costs from air pollution include damage to plants, animals, buildings and structural materials. Agricultural losses in California caused by air pollution are estimated to be $300 million each year. Deterioration of buildings, metal, rubber, and painted surfaces (e.g.: the cost to clean buildings resulting from diesel soot) cost millions of dollars each year. Decreased visibility, often called "haze," degrades the natural beauty of the Bay Area and secondarily, this can affect tourism and economic growth. A 1996 University of California at Davis study estimated the total national cost from automobile generated air pollution to be between $24 and $450 billion per year.

(e) Over one hundred types of air pollutants exist. The most serious and persistent outdoor air quality problem in the Bay Area is high levels

of ground level ozone or smog. Ozone is formed as the result of a complex photochemical process which occurs when certain volatile organic compounds and gases (predominantly oxides of nitrogen from automobile combustion) react with sunlight and high temperatures. Since automobile travel is responsible for over half of the chemicals that cause high ozone levels in the Bay Area, replacement of polluting vehicles by less polluting vehicles is a crucial element in the continued health of the residents and businesses of San Francisco.

(f) The Clean Air Act mandates the United States Environmental Protection Agency (EPA) to establish national air quality standards that would ensure the same basic health and environmental protection for all Americans. The Bay Area Air Quality Management District (BAAQMD) uses the Pollutant Standard Index (PSI) to report air pollution information to the public, as well as to monitor compliance with the Clean Air Act. The EPA sets the National Ambient Air Quality Standard (NAAQS) to represent the concentration of a pollutant above which adverse health effects have been observed.

(g) In the past five (5) years, the Bay Area has violated the NAAQS for ozone twenty-nine (29) times. As a result, the EPA has reclassified the Bay Area as a Nonattainment area for the federal one-hour ozone standard. The loss of ozone attainment status will force the BAAQMD to adopt stricter regulations from a list of measures in the state implementation plan (SIP), a requirement under the Clean Air Act. New regulations will adversely affect Bay Area businesses and possibly automobile owners. Stricter air quality regulations translate to higher costs for everyone and may cause fewer businesses to be created and retained in the Bay Area. The EPA is presently implementing a new ozone monitoring standard which will likely further jeopardize the future attainment status of the Bay Area and lead to adoption of even stricter standards by BAAQMD.

(h) Over ninety percent (90%) of Californians live in regions adversely affected by air quality problems, largely as a result of automobile exhaust. A program to control automobile emission in California began in 1961, far in advance of federal controls. The State of California conducts its own vehicle emissions control program that is stricter than federal standards. Nevertheless, the Bay Area continues to violate state ozone standards at an alarming rate, with one-hundred and twelve (112) exceedance over the past five (5) years. In 1988, the California Legislature enacted the California Clean Air Act, which requires each air district not meeting state air quality standards to prepare a Clean Air Plan that would achieve the standards. The Clean Air Plan contains regulations that affect both Bay Area businesses and residents.

(i) In 1990, the California Air Resources Board adopted the Low-Emission Vehicle (LEV) regulation, which requires auto manufacturers to produce vehicles that meet increasingly stringent air quality standards. These regulations originally required that, beginning in 1998, two percent (2%) of all vehicles sold by auto manufacturers to be zero emission vehicles (ZEVs). These regulations have since been modified to eliminate the phase-in of ZEV sales requirement for 1998 through 2000 model years in favor of a ZEV demonstration program during this period. The new regulations retain the prior requirement that beginning with the 2003 model year, ten percent (10%) of all vehicles sold in California must be ZEVs.

(j) In 1997, the Board of Supervisors approved the Sustainability Plan for the City and County of San Francisco. The Sustainability Plan states, "[a]chieving and maintaining good air quality is crucial to the public health and economic vitality of San Francisco."

(k) The United States imports over fifty percent (50%) of its oil. This high dependence on imported oil has become a major national security concern for the Federal Government.

(l) To address this national security issue, Congress passed the Energy Policy Act of 1992 (EPACT) and directed the Department of Energy (DOE) to establish a variety of programs aimed at substantially reducing the quantity of oil

consumed by motor vehicles. EPACT requires the Federal Government to phase in fleet acqui-

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sitions of alternative fuel vehicles. DOE is in the process of rulemaking to determine whether alternative fuel vehicle acquisition requirements for private and local government automobile fleets are necessary to achieve EPACT's clean air and energy security goals. DOE is promoting the voluntary use of alternative fuel vehicles through its Clean Cities programs.

(m) DOE officially recognized the San Francisco Clean Cities Coalition (SFCCC) in 1994 as a Clean Cities program. SFCCC has ongoing programs of substituting conventional transportation fuels with domestically produced, clean burning alternative fuels; encouraging an increase in acquisition and utilization of alternative fuel vehicles (AFVs); developing alternative fuel supply infrastructure and related services; advancing public understanding of the benefits and costs of using AFVs. SFCCC members include: the Department of Administrative Services, Department of Public Transportation, Public Utilities Commission, San Francisco International Airport, San Francisco County Transportation Authority, BAAQMD, City College of San Francisco, Pacific Gas and Electric Company, United States Department of Energy, United States National Park Service, United States General Services Administration, United Airlines, NorCal Waste Management, Inc., Olympian Oil Company, and the San Francisco Bay Area Clean Air Vehicle Coalition (the precursor organization to the Clean Cities Coalition).

(n) The City and County of San Francisco currently operates over one hundred and thirty (130) AFVs. These vehicles have proved themselves to be cost effective and were easily integrated into the City's fleet operations. The use of low emission AFVs by the City has been beneficial to the air quality in the Bay Area.

(o) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public moneys are made in a manner consistent with the policy of improving the air quality in the City and in the Bay Area through the purchase and use of low emission AFVs and ZEVs.

(p) Under this Chapter, the City and County of San Francisco wishes to foster, promote, and encourage the use of low emission AFVs and ZEVs by developing infrastructures to support the use of these vehicles.

(q) Under this Chapter, a Clean Air Program is established to aid the City and County of San Francisco in identifying funding sources for the purchase of low emission AFVs and ZEVs, to assist the City in the development of alternative fuel infrastructures, to develop a clean air plan for the City and County of San Francisco, and to educate and promote the use of low emission AFVs and ZEVs in the private and public sectors.

(r) This Chapter applies the Precautionary Principle to the selection of low or zero emission vehicles and the creation of fueling infrastructure for City fleets and public transit to minimize impacts on human health and natural resources. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.1; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 401. DEFINITIONS.

(a) "Alternative Fuel" means any fuel other than gasoline, diesel, and other substantially petroleum-based fuels that is less polluting than gasoline or diesel fuel, as determined by the California Air Resource Board. Alternative Fuel shall include, but is not limited to, natural gas and electricity.

(b) "Alternative Fuel Vehicle" means any motor vehicle powered by alternative fuels.

(c) "Bi-Fuel Vehicle" means any motor vehicle designed to operate on two (2) fuels, one of which is an alternative fuel, but not on a mixture of fuels.

(d) "Bus" means any passenger vehicle with a seating capacity of greater than fifteen (15) persons.

(e) "Car-Sharing Program" means a program in which automobile providers are established to make motor vehicles available to people on a per-use basis.

(f) "City Department" means any department of the City and County of San Francisco. City department does not include any other local agency or any federal or State agency, including but not limited to the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.

(g) "Construction Vehicle" means any motor vehicle intended for use in the construction, repair, and/or demolition of structures or roadways and which is not licensed for use on public roads.

(h) "Electric Charging Bay" means a device used to restore the electromotive power of a battery in an electric vehicle.

(i) "Electric Vehicle" means a zero emission vehicle that derives its motive power from one (1) or more electric motors.

(j) "Fast-Fueling" means a fueling process that refuels an alternative fuel vehicle in the same or less time than traditional refueling methods.

(k) "Heavy Duty Vehicle" means any motor vehicle, licensed for use on roadways, having a manufacturer's gross vehicle weight rating greater than 14,000 pounds.

(l) "Hybrid Electric Bus" means a bus having an on-board internal combustion engine attached to an electric generator.

(m) "Light Duty Truck" means any motor vehicle, with a manufacturer's gross vehicle weight rating of 6,000 pounds or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

(n) "Medium Duty Vehicle" means any 1995 and subsequent-model year vehicle having a manufacturer's gross vehicle weight rating of 14,000 pounds or less and which is not a passenger vehicle or light-duty truck.

(o) "Motor Vehicle" means a self-propelled vehicle.

(p) "Motorized Equipment" means any implement powered by an internal combustion engine.

(q) "Natural Gas Bus" means a bus powered by natural gas.

(r) "Natural Gas Fueling Station" means any fueling station that provides fueling services for motor vehicles fueled by natural gas.

(s) "NO_X" means oxides of nitrogen.

(t) "Particulate Matter (PM)" means solid or liquid particles of soot, dust, smoke, fumes, aerosols or other airborne material.

(u) "PM_{10}" means particulate matter less than ten (10) microns in diameter.

(v) "$PM_{2.5}$" means particulate matter less than two and five-tenths (2.5) microns in diameter.

(w) "Passenger Vehicle" means any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve (12) persons or less.

(x) "Portable Motorized Equipment" means motorized equipment that is capable of being carried or moved from one location to another. Indicia of portability or transportability include, but are not limited to, wheels, skids, carrying handles, a dolly, a trailer, or a platform.

(y) "Stationary Motorized Equipment" means motorized equipment that remains or will remain at a single site at a building, structure, facility, or installation for more than twelve (12) consecutive months.

(z) "Trolley Bus" means an electric-powered bus that derives its motive power from overhead wires.

(aa) "Ultra-Low Emission Vehicle" means any motor vehicle that meets or exceeds the standards set forth in 13 California Code of Regulations § 1960.1 for Ultra-Low Emission Vehicles.

(bb) "Zero-Emission Vehicle" means (i) any motor vehicle that produces zero exhaust emissions of all criteria pollutants, as defined by 17 California Code of Regulations § 90701(b), (or precursors thereof) under any and all possible

operational modes and conditions or (ii) any vehicle that has been certified by the California Air Resources Board as a zero-emission vehicle.

(cc) "Director" means the Director of the Department of the Environment established pursuant to Section 4.118 of the Charter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.2; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 402. CLEAN AIR PROGRAM ESTABLISHMENT, DUTIES AND FUNDING.

(a) There is hereby established a program to be known as the Clean Air Program in the City and County of San Francisco in the Department of the Environment.

(b) Subject to the budget, fiscal and Civil Service provisions of the Charter, the Director shall appoint an individual who shall be responsible for the day-to-day Program operations, including but not limited to supervision of staff and budgeting. The Clean Air Program shall be responsible for supervising the implementation of the provisions of this Chapter, assisting with the expansion of the alternative fueling network in the City and County of San Francisco, assisting with City department financing and acquisition of ultra-low or zero emission vehicles and equipment, performing outreach to residents and private sector fleet operators to encourage the purchase of ultra-low and zero emission vehicles and equipment, promoting automobile trip reduction by City employees, developing educational programs to train City employees in the use of alternative fuel vehicles and equipment and in techniques that reduce fuel consumption, encouraging the development of car-sharing programs, and serving as San Francisco's Clean Cities Coordinator, under the Clean City Program of the U.S. Department of Energy. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.3; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 403. [RESERVED]

SEC. 404. ALTERNATIVE FUEL INFRASTRUCTURE.

(a) **Natural Gas Fueling Stations—Assessment and Recommendations.** Not later than six (6) months from the effective date of this Chapter, the Planning Department, in cooperation with the Clean Air Program, shall assess the need for a competitive network of public access natural gas fast-fueling stations in the City and County of San Francisco and shall provide a report to the Board of Supervisors detailing the results of the assessment. Such report shall include recommendations for legislative action that may be required to achieve the goal set forth in subsection (b).

(b) **Development of Natural Gas Fueling Stations.** Not later than eighteen (18) months from the effective date of this Chapter, the Planning Department, in cooperation with the Department of Building Inspection, shall coordinate the siting and development of not fewer than five (5) public access natural gas fast-fueling stations by public and/or private entities within the City and County of San Francisco. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.5; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 405. ELECTRIC VEHICLE CHARGING INFRASTRUCTURE.

(a) **Establishment of Pilot Program.** Not later than eighteen (18) months from the effective date of this Chapter, the Department of Parking and Traffic in consultation with the Department of Building Inspection shall implement a pilot program to install a total of fifty (50) public access, dedicated electric charging bays in at least six (6) City-owned garages, parking lots, and/or other sites accessible to the public.

(b) **Planning and Assessment.** Not later than eighteen (18) months from the effective date of this Chapter, the Department of Parking and Traffic, in cooperation with the Clean Air Program, shall develop and recommend to the Board of Supervisors a plan for creating a com-

prehensive electric charging infrastructure for electric vehicles in the City and County of San Francisco. Such plan shall include:

(1) A market demand assessment for electric charging infrastructure needs within the City and County of San Francisco based on California Air Resource Board mandates for zero-emission vehicle sales and projected sales within the Bay Area;

(2) An assessment of public and private funding options available for installation of charging bays in all City-owned parking garages and lots by the year 2003; and

(3) Tax-based or other incentive programs to encourage the installation of electric charging bays in privately owned parking facilities located in the City and County of San Francisco. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.6; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 406. PROCUREMENT OF VEHICLES BY CITY DEPARTMENTS.

(a) **Passenger Vehicles and Light-Duty Trucks.** Except as set forth in subsection (e), beginning 90 days from the effective date of this Chapter, all City departments shall purchase or lease only models of passenger vehicles and light duty trucks that are rated as ultra-low emission vehicle or zero emission vehicle. Commencing July 1, 2000, at least ten percent (10%) of all passenger vehicles and light duty trucks purchased or leased by the City within any fiscal year shall be zero emission models. The Mayor's Office and the Director shall review annual and supplemental vehicle funding requests from City departments to ensure that this requirement is met each fiscal year.

(b) **Medium Duty Vehicles.** Except as set forth in subsection (e), beginning 90 days from the effective date of this Chapter, City departments shall purchase or lease only Medium Duty Vehicles with engines having exhaust emissions levels rated as ultra-low emission or super ultra-low emission pursuant to Section 1956.8(h) of Title 13 of the California Code of Regulations or Medium Duty Vehicles that are rated as ultra-low emission or super ultra-low emission pursuant to Section 1960.1(h)(2) of Title 13 of the California Code of Regulations.

(c) **Heavy Duty Vehicles.** Except as set forth in subsection (e), beginning 90 days from the effective date of this Chapter, when purchasing or leasing Heavy Duty Vehicles, City departments shall purchase or lease only Heavy Duty Vehicles whose engines are certified under the optional standards for their exhaust emissions pursuant to Section 1956.8 of Title 13 of the California Code of Regulations.

(d) **Motorized Equipment.** Except as set forth in subsection (e), City departments shall purchase or lease only portable or stationary motorized equipment that is powered by alternative fuels.

(e) **Exemptions.**

(1) Notwithstanding any other provisions of this Chapter, this Section shall not apply to any motor vehicles that are used for public safety purposes. Such vehicles shall include, but are not limited to: police vehicles, fire vehicles, ambulances, and other emergency response vehicles. Nothing in this subsection shall be construed to prohibit City departments from purchasing or leasing motor vehicles used for public safety purposes that satisfy the requirements of this section. It shall be the policy of the City to purchase or lease emergency response vehicles that comply with the requirements of this section to the extent that the purchase or lease of such vehicles is feasible and practical.

(2) This Section shall not apply to the acquisition of buses by the Public Transportation Department for its fleet.

(3) Upon a written request from a City department, the Director may grant an exemption to the requesting City department from the requirements of this Section under the following circumstances:

(A) Where the requesting department demonstrates that no model of motor vehicle or motorized equipment is available which will comply with the requirements of this Section and meet the specifications of the department for its

intended use. In deciding whether to grant an exemption pursuant to this subparagraph, the Director shall consider the availability of funding for the purchase or lease of motor vehicles or motorized equipment mandated by this Section.

(B) Where the requesting department demonstrates to the satisfaction of the Director each of the following:

(i) That the cost of the vehicle or motorized equipment that complies with the requirements of this Section is more than one and a half times the cost of an equivalent low emission vehicle or motorized equipment powered by gasoline or diesel fuel;

(ii) That the department has applied for, but failed to receive, funding for the purchase or lease of the vehicle or motorized equipment that complies with the requirements of this Section from sources other than the City's General Fund; and

(iii) That the amortized cost differential cannot be recovered over the operating life of the vehicle or motorized equipment that complies with the requirements of this Section through a reduction in fuel, maintenance, and other costs incurred during the operating life of such vehicle or equipment.

(C) Where the requesting department demonstrates to the satisfaction of the Director that the use of vehicle or motorized equipment that complies with the requirements of this Section would significantly disrupt departmental operations due to the lack of adequate fueling and/or maintenance facilities for those motor vehicles or motorized equipment.

(4) Where the Director grants an exemption pursuant to paragraph (3), the requesting department shall purchase or lease the model of motor vehicle or motorized equipment that will meet its specifications and has the lowest available ratings for emissions of NO_X and PM_{10}, and, if applicable, $PM_{2.5}$ established by the California Air Resources Board for the type or class of vehicle or motorized equipment being purchased or leased.

(f) **Rules and Regulations.** The Director may promulgate such regulations as may be necessary from time to time to carry out the requirements of this section.

(g) **List of Vendors.** The Director shall develop a comprehensive list of vendors supplying motor vehicles and motorized equipment that comply with the requirements of this section for use by City departments in making purchasing or leasing decisions.

(h) **Other Requirements.** All motor vehicles and motorized equipment purchased or leased pursuant to this section shall meet all applicable safety standards and other requirements for the intended use of the vehicle or equipment.

(i) **Funding.** It shall be the policy of the City to: (1) use monies that are not part of a City department's regular appropriation, including, but not limited to, regional, state, or federal grants, to fund the entire purchase or lease price of ultra-low or zero emission vehicles or motorized alternative fuel equipment that is used in a pilot program or demonstration project; and (2) in all other cases, use such monies only to fund the difference in purchase or lease price between the ultra-low or zero emission vehicle or motorized alternative fuel equipment and the gasoline or diesel-fueled motor vehicle or motorized equipment that would otherwise be purchased or leased.

(j) **Annual Report.** Not later than September 1 of each fiscal year, the Director shall submit to the Mayor and the Board of Supervisors a report which includes a summary of motor vehicles and motorized equipment purchased or leased by City departments. Such report shall include a comparison of (i) the annualized projected maintenance and fueling costs for each type or class of motor vehicle and motorized equipment purchased or leased pursuant to this section, (ii) the estimated annualized maintenance and fueling costs for vehicles and motorized equipment that would otherwise be purchased or leased, and (iii) the projected reduction in the emissions of NO_X, PM_{10} and, if applicable,

$PM_{2.5}$ from motor vehicles and motorized equipment purchased or leased pursuant to this section.

(k) **Phase Out of Highly Polluting Vehicles and Equipment.** Not later than eighteen (18) months from the effective date of this Chapter, each City department, with the cooperation of the Director, shall develop and recommend to the Board of Supervisors a plan to phase out the use of older and highly polluting motor vehicles and motorized equipment that have been in service for twelve (12) or more years. Such plan shall include, but is not limited to, a study into the feasibility of centralizing the purchase and ownership of City motor vehicles within the Department of Administrative Services, which are leased to City Departments on an as-needed basis. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.7; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 407. OPERATION OF BI-FUEL VEHICLE.

No bi-fuel vehicle owned by the City may be powered by gasoline, diesel, or other petroleum-based fuel while operating within the City and County of San Francisco. Bi-fuel vehicles owned by the City shall bear a notice stating the requirements of this subsection, posted in one or more locations that are plainly visible to the vehicle operator. This section shall not apply to (1) the operation of bi-fuel vehicles in emergency situations or (2) the operation of buses by the Public Transportation Commission. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.8; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 408. DEPARTMENT OF PUBLIC TRANSPORTATION BUSES AND TROLLEY BUSES.

(a) **Pilot Program.** For the purpose of developing fueling specifications for the first planned Department of Public Transportation bid package after the effective date of this chapter to replace existing diesel-powered buses, the Public Transportation Commission, with input from the Transportation Authority, shall implement an alternative fuels pilot program to evaluate the efficacy of using alternative fuel buses to reduce air pollution while maintaining current level of service and safety. This program shall include testing of both dedicated natural gas and hybrid electric buses.

(b) **Identification and Conversion of Diesel Bus Lines.** Not later than six (6) months from the effective date of this Chapter, the Public Transportation Commission shall identify heavily traveled diesel bus lines that are appropriate for conversion to cleaner, quieter electric trolley bus lines. The Public Transportation Commission and the Planning Department shall develop proposed street amenities, including, but not limited to, light standards and street landscaping, designed to mitigate the aesthetic impact of any proposed overhead wires. Residents in the neighborhoods surrounding such bus lines shall be provided with notice and an opportunity to comment on the proposed plan.

(c) **Phase-Out of Diesel Buses.** Not later than eighteen (18) months from the effective date of this Chapter, the Public Transportation Commission shall develop a plan to phase out the use of diesel buses that have been in service for a time period greater than the time period set forth by the applicable federal funding guidelines. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.9; added by Ord. 258-99, File No. 990624, App. 10/15/99)

SEC. 409. REGIONAL PUBLIC SECTOR AND PRIVATE SECTOR FLEETS.

(a) **Regional Public Transportation Authorities.** Not later than twelve (12) months from the effective date of this Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage the regional public sector transit agencies to use buses that are classified as zero emission or cleaner emission vehicles on bus lines that originate or terminate in San Francisco.

(b) **Private Sector Fleets.** Not later than twelve (12) months from the effective date of this Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage private sector fleets that operate a significant number of motor vehicles within the City and County of San Francisco to convert their fleets to zero emission vehicles or motor vehicles that comply with the requirements of Section 406 of this Chapter.

(c) **Residential Vehicles.** Not later than twelve (12) months from the effective date of this Chapter, the Clean Air Program shall develop a plan, including incentives, to encourage residents of the City and County of San Francisco to purchase zero-emission vehicles or motor vehicles that comply with Section 406 of this Chapter.

(d) **San Francisco Unified School District.** Upon request by the San Francisco Unified School District, the Transportation Authority and the Public Transportation Commission shall assist the school district with the development of bid specifications and/or contract requirements requiring the use of alternative fuel school buses in the District's bid package for school bus service. Upon request by the San Francisco Unified School District, the Transportation Authority and the Public Transportation Commission shall also assist the school district with the preparation of applications for local, regional, state, and/or federal funding to pay for part or all of the costs of such buses.

(e) **Car-Sharing Program.** The Clean Air Program, shall assist the Department of Parking and Traffic and the Planning Department and other Federal and State agencies in the development of car-sharing programs in all high density urban neighborhoods of the City. Such neighborhoods shall include, but are not limited to, Nob Hill, North Beach, Russian Hill, Castro, Tenderloin, Telegraph Hill, Downtown, Mission, Hayes Valley, Haight, Mission Bay, Treasure Island, and the Presidio. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 85.10; added by Ord. 258-99, File No. 990624, App. 10/15/99; amended by Ord. 58-03, File No. 030043, App. 4/11/2003)

SEC. 410. SAN FRANCISCO MUNICIPAL RAILWAY BUSES.

Acquisition of Clean Muni Buses. Muni shall replace all pre-1991 diesel buses on or before January 1, 2007.

Phase Out of Highly Polluting Muni Diesel Buses. Muni shall remove from active or reserve service and shall no longer operate any diesel bus that exceeds its 12 year useful life based on the following schedule:

(1) All diesel buses that were purchased on or before December 31, 1988 shall be removed from active or reserve service on or before December 31, 2004;

(2) All diesel buses that were purchased on or before December 31, 1989 shall be removed from active or reserve service on or before December 31, 2005;

(3) All diesel buses that were purchased on or before December 31, 1990 shall be removed from active or reserve service on or before December 31, 2006.

Extensions. If replacement buses are not commercially available or unforeseen circumstances prevent Muni from procuring new buses on a timely basis, Muni may seek a one-time extension of up to twelve months from the San Francisco Transportation Authority (TA) for any of the aforementioned deadlines. Approval for such extensions shall require eight or more votes by the Transportation Authority Board of Commissioners. Extension requests shall be submitted in writing at least sixty days prior to the deadline and shall include a detailed accounting of why Muni is unable to meet its obligations under this measure. Extension requests shall also include a list of specific actions that Muni will undertake to offset the emission reductions that would have resulted if no extension were granted. Proposed emission reductions should benefit Muni passengers or residents living near diesel bus routes or diesel bus yards. All extension requests shall be evaluated by the Department of the Environment to determine the validity of proposed emission reductions. The Department of

the Environment shall report its findings to the Board of Commissioners at least one week prior to the extension request hearing date.

Notwithstanding Section 406.(e)(2), the provisions of Section 406 shall apply to the acquisition of buses by Muni for its fleet. (Added by Proposition I, 3/2/2004)

SEC. 411. CLEAN CONSTRUCTION ASSISTANCE AND REPORTING.

(a) **Definitions:**

(1) "Most effective verified diesel emission control strategy" means a device, system or strategy that is verified pursuant to Division 3 Chapter 14 of Title 13 of the California Code of Regulations to achieve the highest level of pollution control from an off-road vehicle.

(2) "Off-road engine" mean a diesel internal combustion engine (including the fuel system) including without limitation, internal combustion engines used to power excavators, backhoes, bulldozers or similar equipment used in any City construction projects. "Off-road engine" does not include portable engines or stationary engines (engines that remain at one location for more than 12 months).

(3) "Off-road vehicle" means a vehicle that is propelled by an off-road engine of twenty-five (25) horsepower or greater, including, without limitation, excavators, backhoes, bulldozers and similar equipment used in any project subject to this Chapter. "Off-road vehicle" does not include a horticultural maintenance vehicle used for landscaping purposes that is powered by an off-road engine of sixty-five (65) horsepower or less and that is not used in any construction program or project. "Off-road vehicle" does not include portable equipment.

(4) "Tier 2 standards" are those standards for an off-road engine as described in Division 3, Chapter 9, Article 4, Section 2423(b)(1)(A) of Title 13 of the California Code of Regulations, as amended.

(b) ***Technical Assistance to Local Businesses.*** The Department of the Environment shall provide technical assistance to businesses certified as Local Businesses Enterprises (LBEs) by the Human Rights Commission and other local businesses in securing available local, state and federal public incentive funding to retro-fit, repower or replace off-road vehicles or off-road engines operated by such businesses within the City.

(c) **Annual Reporting Requirement.** The Department of the Environment annually shall prepare and distribute to City departments with off-road vehicles or off-road engines summary information, including application procedures and deadlines, about available local, state and federal public incentive programs to retrofit, repower, or replace older, more polluting diesel equipment. The Department of the Environment shall include in the Annual Report to the Mayor and the Board of Supervisors, required in Section 406(j), the following: (1) information about the extent to which each City Department's off-road vehicle and off-road engine fleet meets or exceeds either Tier 2 standards for off-road engines or utilizes the most effective verified diesel emission control strategy, (2) a summary of the results of grant applications made and awarded for the prior year to retro-fit, repower or replace off-road vehicles and engines in the City's fleet, including fleet upgrades funded and completed, (3) a summary of technical assistance provided to LBEs and other local businesses, and results, if known, and (4) recommendations to the Board of Supervisors, Mayor, and City Departments for procedural, policy, or legislative changes to reduce air pollution emanating from off-road vehicles and off-road engines. (Added by Ord. 70-07, File No. 061432, App. 4/2/2007)

CHAPTER 5: RESOURCE CONSERVATION ORDINANCE

Sec. 500. Findings.
Sec. 501. Definitions.
Sec. 502. Waste Reduction by City Departments.
Sec. 503. Departmental Waste Assessment.
Sec. 504. Resource Conservation Plan.
Sec. 505. Janitorial Contracts.
Sec. 506. Purchase and Use of Printing and Writing Paper Products.
Sec. 509. Non-PVC Plastics.
Sec. 510. Annual Reports.
Sec. 511. Guidelines.
Sec. 513. Penalty.
Sec. 514. Severability.

SEC. 500. FINDINGS.

The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

(A) The California Integrated Waste Management Act (Public Resources Code § 40000 et seq.) requires all cities and counties to reduce their waste by 50% by the year 2000 or face potential penalties of up to $10,000 per day. The City must take a leadership role and act quickly and responsibly to implement the necessary measures to achieve this mandate.

(B) City departmental operations and activities have been found to contribute significantly to San Francisco's solid waste stream. The waste management and buy recycled provisions of this ordinance are necessary to help departments reduce their waste.

(C) On September 14, 1998, the President of the United States signed Executive Order 13101 *Greening the Government through Waste Prevention, Recycling, and Federal Acquisition* to "strengthen the role of the Federal government as an enlightened, environmentally conscious and concerned consumer." The State and Federal governments have strongly encouraged local governments to procure recycled and environmentally preferable products and services as a way to increase market demand for such products.

(D) Local agencies that use appropriated federal funds to procure $10,000 or more worth of a designated item in a given year are subject to the federal comprehensive procurement guidelines for recycled products.

(E) Pursuant to Board of Supervisors Resolution No. 246-99, *Establishing Dioxin as a High Priority for Immediate Action for the City and County of San Francisco in Order to Restore Water Quality and Protect the Public Health and Enabling the San Francisco Commission on the Environment to Create a Task Force and Report Back on Strategies to Ensure that Less Toxic, Non-Chlorinated Sustainable Products and Processes are Actively Supported,* each City department must report to the Board of Supervisors on strategies they are using to ensure that less-toxic, non-chlorinated products sustainable alternative products, such as chlorine-free paper and PVC-free plastics, are actively supported and used.

(F) The landfill capacity available to San Francisco at the Altamont Landfill is expected to last only until approximately 2012.

(G) The discard of useable or recyclable materials into the waste stream deprives the City of the economic benefit of the value of these materials while creating unnecessary expenses for collection and disposal.

(H) This Chapter applies the Precautionary Principle to the selection of commodities used in City operations that minimize impacts on natural resources by maximizing recycled content, recycling, and reuse. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.1; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 501. DEFINITIONS.

As used in this Chapter, the following words shall have the following meanings:

"City department" means any department of the City and County of San Francisco, and does not include any other local agency or any federal or State agency, including but not limited to the San Francisco School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.

"Contract" means a binding written agreement for the provision of goods and/or services to be provided at the expense of the City or to be paid out of monies deposited in the treasury or out of trust monies under control of the City between a person, firm, corporation or other entity, including a governmental entity, and a City department. This Chapter shall not apply to contracts entered into or amended to extend the term prior to October 1, 2000.

"Contractor" means a person, firm, corporation or other entity, including a governmental entity, that enters into a contract with a City department.

"Contracting officer" means that officer or employee of the City authorized under the Charter or Municipal Code to enter into a contract on behalf of the City. "Contracting officer" shall include the Mayor, each department head or general manager and other employees of the City authorized to enter into contracts on behalf of the City.

"Director" means the Director of the Department of the Environment or his or her designee.

"Document Imaging" means the conversion of paper documents into electronic images on a computer, thereby reducing the amount of paper used for copying and printing. A document imaging system includes the ability to scan, store, index, retrieve and search documents.

"Post-consumer material" means those products generated by a business or consumer which have served their intended end use, and which have been diverted from becoming solid waste for purposes of recycling.

"Processed Chlorine Free" means recycled paper in which the recycled content is unbleached or bleached without chlorine or chlorine derivatives. Any virgin material portion of the paper must be totally chlorine free (i.e., unbleached or processed with a sequence that includes no chlorine or chlorine derivatives).

"Purchaser" means the Purchaser of the City or his or her designee.

"Recyclable material" means any material or product separated or capable of being separated at its point of discard or from the solid waste stream for utilization as a raw material in the manufacture of a new product.

"Recycle" or "recycling" means the process of collecting, sorting, cleaning, treating, reusing or reconstituting a material that would otherwise become a solid waste and/or hazardous waste, and returning it to the economic mainstream in the form of a raw material for new, reused or reconstituted products which may be used in the marketplace.

"Reuse" means the secondary use of a product or its packaging for its original intended purpose or another function which does not require the product to be treated or reconstituted in any way.

"Solid Waste" or "Waste" has the same meaning as "solid waste" in the California Integrated Waste Management Act of 1989, Public Resources Code Section 40191.

"U.S. EPA" means the United States Environmental Protection Agency.

"Waste prevention" means discontinuing the use of an unnecessary material rather than disposing of it to the waste stream and shall include: (1) reduced resource use per unit of product; (2) increased product life; and (3) decreased consumption.

"Waste Reduction" means the diversion of materials, products and packaging from disposal through waste prevention, reuse, recycling and/or composting, but does not include steps taken after the material becomes solid waste or actions which would transfer the impacts of land disposal to air or water resources, such as transformation, incineration, pyrolysis, distillation, gas-

ification, or biological conversion (other than composting). (Added by Ord. 171-03, File No. 030422, App. 7/3/2003; amended by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.2; added by Ord. 83-00, File No. 000392, App. 5/12/2000; amended by Ord. 210-02, File No. 020784, App. 10/25/2002)

SEC. 502. WASTE REDUCTION BY CITY DEPARTMENTS.

(a) It shall be the goal of the City and every City department to (i) maximize purchases of recycled products and (ii) divert from disposal as much solid waste as possible so that the City can meet the state-mandated 50% division requirement.

(b) Within ninety (90) days of the effective date of this Chapter, each City department shall provide to the Director a written commitment signed by its department head to use its best efforts to help the City achieve its overall state-mandated diversion requirement and to maximize purchases of recycled products. Each department shall distribute copies of the written commitment to its employees and contractors within 30 days of execution.

(c) Each City department shall designate at least one person responsible for compliance with this Chapter, including preparation of the Departmental Waste Assessment (see Section 503) and the development and implementation of a Resource Conservation Plan (504) Each department shall advise the Director of the person so designated in the written commitment described in Subsection (b).

(d) All assessments, plans and reports required to be submitted to the Director under this Chapter shall be submitted electronically.

(e) Within one-hundred eighty (180) days of the effective date of this Chapter, the director shall make recommendations to departments on the use of document imaging systems for storage, retrieval and public access to departmental records.

(f) All contracts and other similar written agreements shall incorporate this Chapter by reference whenever applicable and shall provide that the failure of any bidder, proposer or contractor to comply with any of its requirements shall be deemed a material breach of contract. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.3; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 503. DEPARTMENTAL WASTE ASSESSMENT.

(a) **Guidelines.** Within thirty (30) days of the effective date of this Chapter and in accordance with Section 511, the Director will adopt guidelines for conducting a departmental audit to establish a Departmental Waste Assessment. For purposes of this assessment, the volume or weight of all waste generated or disposed of or diverted by a department shall be included, unless such waste is not subject to the diversion requirements contained in the California Integrated Waste Management Act of 1989, Public Resources Code § 40000 et seq. The guidelines shall include, at a minimum:

(1) Procedures for determining whether a department generates a heterogeneous waste stream (a combination of waste types, such as wood, yard debris, metals and food waste) or generates a homogenous waste stream (such as office-type wastes);

(2) Guidance on determining which wastes should be included in a waste assessment (including how to account for wastes not subject to state diversion requirements);

(3) How to determine which facilities should be included in a waste assessment; and

(4) How to estimate/calculate volumes, weights and costs associated with all waste.

(b) Within twelve (12) months of the effective date of this Chapter, each department that generates a heterogeneous waste stream (As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Departmental Waste Assessment.

(c) Within eighteen (18) months of the effective date of this Chapter, each department that generates a homogenous waste stream (As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Departmental Waste Assessment.

(d) Each department shall update its Departmental Waste Assessment annually and submit it to the Director for approval. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.4; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 504. RESOURCE CONSERVATION PLAN.

(a) **Guidelines.** Within thirty (30) days of the effective date of this Chapter and in accordance with Section 511, the Director will issue guidelines for development and implementation of a Resource Conservation Plan. The guidelines will cover, at a minimum, the following elements of a Resource Conservation Plan:

(1) Waste reduction, prevention and reuse;

(2) Facilitation of collection of recyclable materials;

(3) Maximizing purchases of recycled products;

(4) Operational issues that influence the ability of the City department to recycle, such as janitorial contracts;

(5) Product substitution;

(6) Equipment purchases that could facilitate recycling;

(7) Development of a diversion goal and methods of evaluating whether the goal is being met; and

(8) Examples of model programs for heterogeneous and homogenous waste streams.

(b) Within eighteen (18) months of the effective date of this Chapter, each department that generates a heterogeneous waste stream (As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Resource Conservation Plan.

(c) Within twenty-four (24) months of the effective date of this Chapter, each department that generates a homogenous waste stream (As determined by the Director's guidelines) shall conduct and submit to the Director for review and approval a Resource Conservation Plan. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.5; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 505. JANITORIAL CONTRACTS.

As of six (6) months from the effective date of this Chapter, when the Purchaser or other City department enters into a contract for janitorial services where the City owns or leases at least 50% of the building the Purchaser or other City department shall contractually obligate the janitorial contractor to consolidate recyclable materials from individual City offices to a designated space for pickup by recycling haulers. Consolidation includes collection of recyclable materials from floors or individual offices and transportation to a designated location for pick up by a recycling hauler, but does not include sorting different materials (such as white paper and newspaper) from each other. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.6; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 506. PURCHASE AND USE OF PRINTING AND WRITING PAPER PRODUCTS.

(a) Every publication exhibit, form and letter produced by a City department, including all materials distributed to the public shall be on printing and writing paper products that contain:

(1) A minimum of 30% post-consumer materials for copier and bond paper (including any uncoated duplicating, printer and letterhead paper used in a variety of end use applications such as business forms and offset printing, but excluding high quality papers used for stationery, envelopes and other specialty items); and

(2) A minimum of 30% post-consumer materials for all other printing and writing paper products including, without limitation: publications, forms, letters, letterhead, promotional materials, advertisements, educational pamphlets, newsletters, exhibits, reports, business cards, calendars, commission and committee notices, agendas and minutes, requests for proposals or qualifications, invitations for bids, checks, tickets, high quality papers used for stationery, envelopes and other specialty items and other printed materials.

(3) The minimum level of post-consumer content will be reviewed annually by the Director. Pursuant to Section 511, the Director may raise, but not lower, the minimum level of post-consumer content as higher post-consumer content paper becomes available.

(4) All printing and writing paper products shall be on processed chlorine free paper as it becomes available at a reasonable price. The availability of processed chlorine free paper will be determined by the Director pursuant to Section 511.

(b) All pre-printed materials intended for distribution that are purchased or produced in quantities greater than 50 sheets after the effective date of this Chapter must include a recycled content logo and the percentage of post-consumer material in the paper.

(c) Each City department, including the Purchaser, shall use its best efforts to incorporate the standards set forth in this Section into existing contracts for the provision of printing and writing paper and services. If the City department is unable to amend an existing contract, the City department is authorized to enter into another contract to procure products that do comply with this Section, provided that the City department complies with all other applicable laws. Nothing in this Chapter is or shall be interpreted to require or authorize any City department to breach the terms of a contract. Each City department shall document its efforts pursuant to this Section in a report filed with the Director, explaining the circumstances.

(d) This Section does not apply to commercial sanitary products, paperboard and packaging products, newsprint products or other products not generally considered to be printing or writing paper products.

(e) The contracting officer shall require all suppliers of printing and writing paper products or services to certify the minimum content of post-consumer materials in the products to be provided in the performance of a contract.

(f) Unless specifically provided by court rules or other legal mandates, all pre-printed City forms and other pre-printed material shall be printed on double-sided pages.

(g) In all contracts for printing services for the City, the contract shall specify and require that the contractor use paper products meeting the standards set forth in this Section, and, unless inappropriate for the end use, that the contractor print the document on both sides of the paper.

(h) Any City department seeking the preparation and/or submission of any bid, report, request for proposal, quotation or other document shall specify and require the document to be submitted on paper which meets the requirements in this Chapter and printed on double-sided pages. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003; amended by Ord. 115-05, File No. 050595, App. 6/17/2005) Derivation Former Administrative Code Section 21A.7; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

Sec. 507.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.8; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

Sec. 508.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.9; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 509. NON-PVC PLASTICS.

Wherever possible, all departments shall obtain non-PVC plastics where appropriate alternative products composed of non-chlorinated materials are available. City departments are not required to procure non-chlorinated products in any of the following circumstances: (i) the product is not available in a reasonable period of time; (ii) the product would fail to meet reasonable performance standards; or (iii) the product is only available at an unreasonable price. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.10; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

SEC. 510. ANNUAL REPORTS.

(a) **Guidelines.** Within thirty (30) days of the effective date of this Chapter and in accordance with Section 511, the Director will adopt a form for annual reporting on solid waste diversion. The form shall account for departments in each phase of development of a Departmental Waste Assessment and Resource Conservation Plan and for transition periods.

(b) No later than March 1, 2001, and annually thereafter, each City department shall report solid waste diversion information to the Director, on forms provided by the Director, for the prior fiscal year. On and after March 1, 2003, the report shall contain information on the types and amount of batteries purchased, collected from and recycled by that department for the prior fiscal year. The annual report must contain a copy of any reports made under Subsections 506(c), 507(b) or (c) or 512(e) or (f) during the prior 12-month period.

(c) No later than June 1, 2001, and annually thereafter, the Director shall prepare and submit a written report to the Board of Supervisors summarizing information provided by City departments pursuant to Subsection (b) and describing the status of the implementation of this Chapter. Among other things, the Director's report shall specifically list each City department that failed to submit an annual report or otherwise conform with the requirements of this Chapter. On and after June 1, 2003, the Director's report shall also contain recommendations regarding batteries and the feasibility of "extended producer responsibility." Extended Producer Responsibility extends the traditional responsibilities that producers and distributors have previously been assigned (i.e. worker safety, prevention and treatment of environmental releases from production, financial and legal responsibility for the sound management of production wastes) to include management at the post-consumer stage. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.11; added by Ord. 83-00, File No. 000392, App. 5/12/2000; amended by Ord. 210-02, File No. 020784, App. 10/25/2002)

SEC. 511. GUIDELINES.

(a) The Director shall act as a clearinghouse of information on recycled product availability, performance, and post-consumer material content and shall assist City departments in meeting compliance with the letter and spirit of this Chapter.

(b) The Director shall promulgate any guidelines necessary or appropriate to carry out the purposes and requirements of this Chapter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003; amended by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.12; added by Ord. 83-00, File No. 000392, App. 5/12/2000)

Sec. 512.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 21A.13; added by Ord. 210-02, File No. 020784, App. 10/25/2002)

SEC. 513. PENALTY.

(a) Whenever any City department finds, after an investigation by the contracting officer and the City Attorney, that a person or entity being considered for a contract or under contract

with the City has, in connection with the bidding, execution or performance of any City contract:

(1) Falsely represented to the City the nature or character of the products offered, used or supplied under the contract; or

(2) Knowingly provided the City with products in violation of this Chapter, the guidelines adopted pursuant to this Chapter, or contract provisions pertaining to the required use or purchase of recycled products the contracting officer shall have the authority to impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this Chapter.

(b) Measures which are available to a City department to enforce this Chapter upon finding a violation pursuant to Section 513(a) include, but are not limited to the following:

(1) Refusal to certify the award of a contract;

(2) Suspension of a contract;

(3) Ordering the withholding of City funds due the contractor under any City contract;

(4) Ordering the recession of a contract based upon a material breach of contract provisions or pertaining to representations made in bidding, execution or performance of the contract;

(5) Debarment of a bidder, proposer or contractor from eligibility for providing commodities or services to the City for a period not to exceed five years, with a right to review and reconsideration by the contracting City office or department upon a showing of corrective action indicating violations are not likely to reoccur.

(c) Nothing in this Chapter shall be construed to relieve a contractor of responsibility for providing a satisfactory product. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.14; added by Ord. 83-00, File No. 00392, App. 5/12/2000; amended by Ord. 210-02, File No. 010784, App. 10/25/2002)

SEC. 514. SEVERABILITY.

If any part or provision of this Chapter, or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect, unless enforcement of this Chapter as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Chapter. To this end, provisions of this Chapter are severable. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21A.15; added by Ord. 83-00, File No. 000392, App. 5/12/2000; amended by Ord. 210-02, File No. 020784, App. 10/25/2002)

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CHAPTER 7: RESOURCE EFFICIENCY REQUIREMENTS

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Sec. 702. Resource Efficient Building Task Force.
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Sec. 706. Construction and Demolition Debris Management.
Sec. 707. Green Building Design Requirements for Construction Projects.
Sec. 708. Waivers.
Sec. 709. Duties of City Departments.
Sec. 710. Report to the Board of Supervisors.

SEC. 700. FINDINGS AND PURPOSE.

The Board of Supervisors finds that:

A. Buildings are one of the distinguishing elements of human civilization, but if they are not constructed thoughtfully they can waste precious natural and financial resources, as well as harm the environment and the health of people who use them. Around the globe, building operations, construction and demolition consume 40 percent of the world's energy, 65 percent of all electricity, and 40 percent of all raw materials. Each year in the United States, building-related activities are responsible for 30 percent of the nation's carbon dioxide emissions, 40 percent of ozone pollution, and 35 percent of municipal solid waste.

B. The construction and remodeling projects San Francisco completed as part of a Green Building Pilot Project demonstrate that thoughtful planning and design decisions can result in a significant cost savings to the City over the life of such facilities, and can improve the health and productivity of City employees and visitors. "Green Buildings" are designed to make optimum use of public transportation and will offer substantial long-term economic, health and environmental benefits to the citizens of San Francisco.

C. The selection of resource efficient and less toxic building materials and design features is consistent with the City's Precautionary Principle Policy. This principle requires that the City consider of a full range of alternatives in order to select products and procedures that minimize harm and maximize the protection of public health and natural resources.

D. The United States Green Building Council (USGBC) is a non-profit, nationally recognized association with membership representing all segments of the building industry, including architects, manufacturers, government agencies, and environmentalists. The USGBC has created the Leadership in Energy and Environmental Design (LEED™) rating system for building design, construction, and operations that provides specific principles and practices which result in certification of environmental performance. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 700 repealed by Ord. 88-04)

SEC. 701. DEFINITIONS.

The following terms shall have the meanings set forth below.

(a) "Building" means:

(1) Any structure used for support or shelter of any use or occupancy. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground.

(2) "Building" includes office buildings and other structures wherein things may be grown, made or produced, kept, handled, stored or disposed of. "Building" also includes marinas, outdoor recreation areas, and parking facilities.

(3) "Building" does not include machinery, equipment, or appliances installed for manufacture or process purposes only, any construction installation that is not part of a building, or any tunnel, roadway or bridge, or any vehicle or mobile equipment.

(b) "City department" means any department of the City and County of San Francisco. City department does not include any other local agency or any federal or State agency, including but not limited to, the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.

(c) "City-owned Facility" means any building owned by the City and County of San Francisco. "City-owned Facility" does not include City-owned facilities or portions thereof that the City leases to non-City entities, except when the City enters into a new lease or other similar agreement with a new tenant executed after August 31, 1999.

(d) "Commission" means the Commission on the Environment.

(e) "Commissioning Process" means an independent process to ensure the attainment of quality facilities pursuant to this Chapter. The process focuses on verifying and documenting that the building and all of its systems are planned, designed, installed, and tested, and are operating and maintained as designed. The Commissioning Process shall coordinate with, but not include, routine inspections performed by the Department of Building Inspection.

(f) "Construction Project" means any building, planning or construction activity, including new construction, renovation, remodeling, or building additions by a City department at a City-owned Facility, Existing City Leasehold, or New City Leasehold.

(g) "Department" means the Department of the Environment.

(h) "Director" means the Director of the Department of the Environment or his or her designee.

(i) "Existing City Leasehold" means that portion or portions of any building that is leased or otherwise occupied, but not owned, by the City and County of San Francisco or any City Department for a term of one year or more pursuant to a written agreement that was executed before August 31, 1999.

(j) "LEED™ rating system" or "LEED™; Leadership in Energy and Environmental Design rating system" means the rating system developed by the United States Green Building Council (USGBC) for evaluating the environmental performance of a building. Buildings are rated on a scale from lowest to highest: LEED™ Certified, LEED™ Silver, LEED™ Gold and LEED™ Platinum.

(k) "LEED™ accredited professional" means an employee of a City department or another individual who has passed the LEED™ accreditation exam issued by the USGBC in applying LEED™ principles to building design.

(l) "New City Leasehold" means that portion or portions of any building that is leased or otherwise occupied, but not owned, by the City and County of San Francisco or any City department for a term of one year or more pursuant to a written agreement that was executed or renewed after August 31, 1999. "New City Leasehold" does not include common area portions of a building that are not exclusively leased or otherwise occupied by a City department.

(m) "Recycling area" means space allocated for collecting, storing, and loading recyclable materials. Such areas shall be able to accommodate receptacles for recyclable materials. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 701 repealed by Ord. 88-04)

SEC. 702. RESOURCE EFFICIENT BUILDING TASK FORCE.

(a) **Establishment and Purpose.** The Board of Supervisors establishes the Resource Efficient Building Task Force to oversee and

assist in making City buildings resource efficient. The Task Force will consist of one member of the public appointed by the Mayor and a representative from each of the following City departments:

(1) The Department of the Environment;

(2) The Bureau of Architecture within the Department of Public Works;

(3) The San Francisco Public Utilities Commission;

(4) The Department of Recreation and Park;

(5) The Bureau of Construction Management within the Department of Public Works;

(6) The San Francisco Municipal Railway;

(7) The Department of Building Inspection;

(8) The Port of San Francisco;

(9) The San Francisco International Airport; and

(10) The San Francisco Public Library.

At least one member of the Task Force shall be a LEED™ accredited professional.

(b) The Department of the Environment shall provide staff for the Task Force. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 702 repealed by Ord. 88-04)

SEC. 703. DUTIES OF THE DEPARTMENT OF THE ENVIRONMENT.

(a) **Establishment and Purpose.** There is hereby created with the Department of the Environment a Resource Efficient Building Program. The purpose of the Resource Efficient Building Program is to:

(1) Develop goals, criteria, and strategies for maximizing resource efficient building design and operations and to make policy recommendations regarding requirements for city and private resource efficient buildings to the Board of Supervisors;

(2) Develop and oversee a training program in resource efficient building practices, including design, construction, renovation, operation and reuse of buildings in a resource efficient and energy efficient manner for department heads and city architects, engineers, construction managers, and building managers employed by the City in order to implement the policies adopted by the Board of Supervisors;

(3) Coordinate with the Task Force and other City departments having expertise with, or with responsibility for, compliance with the requirements of this Chapter, and on achieving resource efficient building goals including, but not limited to, the Department of Public Works, the San Francisco Public Utilities Commission and the Department of Building Inspection. These departments shall also assist the Director in providing advice, assistance, outreach, and education to other City departments concerning resource efficient building practices;

(4) Assess the efficacy of the Pilot Program and the Resource Efficient Building Program on both environmental and economic grounds; and

(5) Provide information to the general public to encourage the adoption of resource efficient building guidelines by the public and private sector.

(b) **Guidance, Rules and Regulations.** After a public hearing, the Director may promulgate such guidance, rules and regulations as may be necessary or appropriate from time to time to carry out the provisions of this Chapter, including the adoption of forms necessary to implement this Chapter. The Director is authorized to call upon other City departments as necessary and appropriate to assist in developing such guidance, rules and regulations.

(c) **Green Building Compliance Guide.** In accordance with Section 703(b) and in consultation with other City departments, no later than 120 days from the effective date of this ordinance, the Director shall adopt and regularly update a Green Building Compliance Guide for San Francisco Municipal Buildings. The Compliance Guide shall contain all necessary forms and guidelines for compliance with this Chapter. At a minimum, the Compliance Guide shall contain:

(1) a list of City requirements pursuant to this Chapter;

(2) all applicable LEED™ methods and standards;

(3) all local and state environmental regulations regarding building design and construction related to LEED™;

(4) directions on how to prepare a conceptual design assessment and a construction documents assessment;

(5) a method for administering a LEED™ rated project;

(6) a LEED™ project checklist;

(7) commissioning guidelines, including how to identify a commissioning authority and how to obtain the LEED™ additional commissioning credit;

(8) guidelines for projects less than 5,000 square feet;

(9) a waiver request form; and

(10) an annual reporting form.

(d) The Director shall determine the costs of implementing this Chapter and shall request that relevant City departments provide work orders to the Department to cover the costs of implementing and maintaining the programs required by this Chapter. Such work orders may cover the costs of departments on the Task Force. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 703 repealed by Ord. 88-04)

SEC. 704. RESOURCE EFFICIENT PILOT PROJECTS.

(a) **Pilot Projects.** Under the original enactment of this Chapter, an interdepartmental task force selected the following as Pilot Projects:

(1) EcoCenter and San Francisco Department of the Environment Offices;

(2) Moscone West Convention Center;

(3) West End Pavilion;

(4) Visitation Valley Clubhouse;

(5) 23rd and Treat Streets New Mission Park and Clubhouse;

(6) Laguna Honda Hospital Replacement Project;

(7) New California Academy of Sciences;

(8) Golden Gate Music Concourse Underground Parking Facility; and

(9) Islais Creek, MUNI Maintenance and Operations Facility.

(b) **Commissioning Process.** Pilot projects are encouraged to follow the Commissioning Process established by the Department pursuant to Section 703.

(c) **Pilot Project Funding.**

(1) Each revenue-generating City department shall, to the extent possible, fund its Pilot Projects from its own revenue. The total costs of a pilot project shall be determined by the Bureau of Architecture, in conjunction with the Department, based upon the design documents submitted by the City department to the Bureau of Architecture.

(2) The Department of the Environment shall assist departments in identifying additional public and private sector funding sources for Pilot Projects not yet completed. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 704 repealed by Ord. 88-04)

SEC. 705. RESOURCE EFFICIENCY REQUIREMENTS FOR CITY BUILDINGS.

(a) Within 90 days of the effective date of this Chapter, the Commission shall issue guidelines to all City departments to assist them in determining which of the following provisions in this Chapter apply to them. Pursuant to Section 703(b), the Director may revise these guidelines from time to time.

(b) **Water Conservation Requirements for Toilets.**

(1) This requirement applies to the following City departments: City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more at City-owned Facilities; City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in Existing City Leaseholds (but only if restrooms are included in the leasehold space and the City department has a separate metering account with the San Francisco Public Utilities Commission); City departments undertaking or authorizing others to undertake Construction Projects with a total

projected cost of $90,000 or more in New City Leaseholds (but only if restrooms are included in the leasehold space and the City department has a separate metering account with the San Francisco Public Utilities Commission Water Department); City departments executing agreements for New City Leaseholds or occupying New City Leaseholds (but only if restrooms are included in the leasehold space and the City department has a separate metering account with the San Francisco Public Utilities Commission); City departments occupying City-owned Facilities (but only if the City department has separate metering account with the San Francisco Public Utilities Commission); and all City departments purchasing toilets beginning 90 days after the effective date of this ordinance.

(2) All City departments listed above shall ensure that all toilets are replaced with toilets that use no more than 1.6 gallons of water per flush. Replacement shall occur at the earlier of:

(A) The time of major remodeling, defined as when a water drainage system is substantially altered, modified or renovated (as those terms are defined in San Francisco Plumbing Code Section 101(4) or when two or more toilets and/or urinals are replaced in a single bathroom; or

(B) By June 30, 2005.

(3) Each City department subject subsection (b)(1) of this Section shall be responsible for the costs of compliance and for ensuring that all applicable contract documents for the replacement of toilets contain the above requirement.

(4) To facilitate the installation of these toilets, the San Francisco Public Utilities Commission shall:

(A) Negotiate and secure, within 90 days of the effective date of this Chapter, contracts with one or more vendors that all City departments may use for the purchase and installation of 1.6-gallon-per-flush valves and tank toilets. The contract will include a list of toilets approved by the International Association of Plumbing and Mechanical Officials. The toilets on this list shall be the only toilets purchased. This list shall be updated annually by the San Francisco Public Utilities Commission and shall be provided to all heads of City departments responsible for purchases and/or installations at City-owned Facilities or leaseholds and to the Purchasing Department.

(B) Establish a procedure (including a fixed price) by which City departments may contract with the Department of Public Works' Bureau of Building Repair for the installation of such toilets. This procedure shall be distributed to all City departments responsible for purchases and/or installations at City-owned Facilities or leaseholds within 90 days of the effective date of this Chapter. It shall be updated by the San Francisco Public Utilities Commission annually and sent to all heads of City departments responsible for purchases and/or installations at City-owned Facilities or leaseholds and to the Purchasing Department.

(5) Between July 1, 2005, and June 23, 2007, the San Francisco Public Utilities Commission shall inspect all buildings subject to this requirement to ensure that all toilets have been installed as required by this subsection.

(6) Should the Director determine that toilets that are more water-efficient than those specified in the foregoing sections exist, the Director may, in consultation with the San Francisco Public Utilities Commission, establish a list of other water-efficient toilets that City departments may use pursuant to Section 703(b).

(c) **Water Conservation Requirements for Shower Heads.**

(1) This requirement applies to the following City departments: City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in City-owned Facilities; City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in Existing City Leaseholds (but only if restrooms are included in the leasehold space and the City department has a separate metering account with the San Francisco Public Utilities Commission); City departments undertaking or authorizing others to undertake Construction Projects with a total

projected cost of $90,000 or more in New City Leaseholds (but only if restrooms are included in the leasehold space and the City department has a separate metering account with the San Francisco Public Utilities Commission); City departments executing agreements for New City Leaseholds or occupying New City Leaseholds (but only if restrooms are included in the leasehold space and the City department has a separate metering account with the San Francisco Public Utilities Commission); City departments occupying City-owned Facilities (but only if the City department has a separate metering account with the San Francisco Public Utilities Commission); and all City departments purchasing shower heads beginning 90 days after the effective date of this Ordinance.

(2) All City departments listed above shall ensure that all shower heads are replaced with shower heads using no more than 1.5 gallons per minute by June 30, 2005.

(3) Each City department subject to subsection (c)(1) shall be responsible for the costs of compliance and for ensuring that all applicable contract documents for the replacement of shower heads contain the above requirement.

(4) To facilitate the installation of these shower heads, the San Francisco Public Utilities Commission shall:

(A) Provide a list of the approved shower head brands and models to all heads of City departments responsible for purchases and/or installations at City-owned Facilities or City Leaseholds and to the Purchasing Department;

(B) Negotiate and secure, within 90 days of the effective date of this Chapter, a contract with one or more vendors for the purchase and installation by City departments of 1.5 gallon per minute shower heads; and

(C) Negotiate a set price for the installation of the shower heads with the Department of Public Works'

(D) Distribute information on the price for installation, and lists of approved shower heads and contract vendors to all heads of City departments responsible for purchases and/or installations at City-owned Facilities or City Leaseholds and to the Purchasing Department.

(5) Should the Director determine that shower heads that are more water efficient than those specified in the foregoing section exist, the Director may, in consultation with the San Francisco Public Utilities Commission, establish a list of other water-efficient shower heads that City departments may use pursuant to Section 703(b).

(d) **Energy Conservation.**

(1) These requirements (or California Code of Regulations Title 24, Part 6, or subsequent State standards, whichever are more stringent) shall apply in all cases except those in which a City department is not responsible for maintenance of light fixtures or exist signs.

(2) City departments shall be responsible for the cost of compliance and for ensuring that all applicable contract documents for the replacement and installation of light fixtures and exit signs contain the following requirements:

(A) **Exit Signs.** At the time of installation or replacement of broken or non-functional exit signs, all exit signs shall be replaced with light-emitting diode (L.E.D.)-type signs. Edge-lit compact fluorescent signs may be used as replacements for existing edge-lit incandescent exit signs.

(B) **Fluorescent Fixtures.** At the time of installation or replacement of broken or non-functional fluorescent fixtures equipped with T10 or T12 lamps, all fixtures shall be equipped with electronic ballasts and T8 or more efficient lamps unless this replacement will create lighting levels at the work surface that are below the standards established by the Illuminating Engineering Society.

(C) **Exterior Light Fixtures.** At the time of installation or replacement of broken or non-functional exterior light fixtures, a photocell or automatic timer shall be installed to prevent lights from operating during daylight hours. The existing switching capability shall be maintained. Upon written request by a City department the Director may grant an exemption from the requirement of this subsection where lighting is necessary during daylight hours.

(D) **Fluorescent Fixture Ballasts.** At the time of installation or replacement of the ballasts in fluorescent fixtures equipped with T10 or T12 lamps, all replacement ballasts shall be electronic and compatible with only T8 or more efficient lamps unless such replacement will create light levels at the work surface that are below the standards established by the Illuminating Engineering Society.

(E) **Other Technologies.** Should the Director determine that light fixtures or exit signs that are more energy-efficient than those specified in the foregoing sections exist, the Director may, in consultation with the San Francisco Public Utilities Commission, establish a list of other energy-efficient light fixtures and exit signs that City departments may use pursuant to Section 703(b).

(e) **Fluorescent Lamp Recycling.** Commencing 90 days after the effective date of this Chapter, all fluorescent lamps discarded by City departments shall be recycled. The Director shall establish a program for collecting and recycling discarded fluorescent lamps.

(f) **Indoor Air Quality.**

(1) This requirement applies to the following City departments: City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in City-owned Facilities; City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in Existing City Leaseholds; City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in New City Leaseholds; City departments occupying an Existing City Leasehold (if the City is responsible for managing the Existing City Leasehold); City departments executing agreements for New City Leaseholds or occupying New City Leaseholds (if the City is responsible for managing the New City Leasehold); and City departments occupying City-owned Facilities (if the City department is responsible for managing the City-owned Facility.)

(2) **Maintenance.** Within 90 days of the effective date of this Chapter, the Department shall provide informational guidelines for the development of indoor air quality maintenance plans to all City departments identified above. The guidelines shall include, at a minimum, guidance and recommendations on the following:

(A) A schedule and procedures for thorough cleaning of finishes, furniture and fixtures in order to remove and reduce the growth of organisms hazardous to human health at the time of delivery and regularly after installation.

(B) A schedule and procedures for inspecting and maintaining mechanical systems, including heating, ventilation and air conditioning systems (hereinafter "HVAC" systems).

(C) A schedule and procedures for inspecting for mold and/or mildew contamination in porous building materials, fixtures and furnishing, including provisions for the complete removal and replacement of such materials where it is determined by inspection that the materials have become contaminated by mold and/or mildew.

(D) A commitment to using cleaners and polishes with minimal effects on indoor air quality.

(3) Within 90 days of the development of guidelines pursuant to Subsection (f)(2), all City departments identified in Subsection (f)(1) shall develop and implement indoor air quality maintenance plans.

(4) **Pollutant Source Control.**

(A) **Reduction of Health Hazards from Microbial Contaminants.** Commencing 90 days after the effective date of this Chapter, all City departments undertaking or authorizing others to undertake Construction Projects with a total projected cost of $90,000 or more in City-owned Facilities, New City Leaseholds, and Existing City Leaseholds shall include in their contracts for Construction Projects provisions requiring:

(i) **Prevention of Moisture Contamination.** Building materials that are intended to be kept dry before, during and following installa-

tion (e.g., fabrics, carpeting, drywall, ceiling tiles, and insulation) shall be protected from moisture prior to, during, and after installation.

(ii) **Removal of Building Materials Contaminated by Moisture.** If, in the judgment of the City project engineer, project architect or project manager, any building material that is intended to be kept dry before, during and after installation has become wet, such material shall be removed immediately from the job site, disposed of in accordance with this Chapter, and replaced. It shall be the responsibility of the relevant contractor or subcontractor to monitor the storage of such materials to ensure that they remain dry and to remove and dispose of such materials if they become wet.

(iii) **Determination by Independent Industrial Hygienist.** On Construction Projects with a total construction cost exceeding $1,000,000, if any building material that is intended to be kept dry becomes, in the judgment of the subcontractor or the City project engineer, contaminated by moisture, the City's project manager shall obtain an assessment by an independent industrial hygienist to assess the extent of contamination and supervise the containment and removal of moisture-contaminated materials. Where the hygienist determines that moisture contamination has occurred, the contractor responsible for causing or allowing the contamination to occur shall be responsible for the costs of the hygienist's services and the costs for removal and replacement of the contaminated materials. Should no moisture contamination be found, the City shall be responsible for the costs of the hygienist's services.

(B) **Elimination or Encapsulation of Fibrous Insulation Materials.** The use of exposed fibrous duct insulation material in Construction Projects shall be prohibited. If the design of a Construction Projection requires the use of fibrous insulation material, such material shall be encapsulated to minimize mold and/or mildew growth and emissions of volatile organic compounds into the habitable space.

(g) **Storage of Recyclables.**

(1) This requirement applies to the following City departments: City departments undertaking or authorizing others to undertake Construction Projects at City-owned Facilities; City departments undertaking or authorizing others to undertake Construction Projects in Existing City Leaseholds; City departments undertaking or authorizing others to undertake Construction Projects in New City Leaseholds; City departments executing agreements for New City Leaseholds or occupying New City Leaseholds; and City departments occupying City-owned Facilities (but only if the City-owned Facility was acquired at least 90 days after the effective date of the Ordinance.)

(2) All City departments identified above shall ensure that adequate, accessible, and convenient recycling areas are provided within the City-owned Facility or leasehold, and that all applicable contract documents contain this requirement. The minimum allowable recycling area shall be not less than the space allocated for the storage of refuse.

(3) The requirement set forth in Subsection (g)(2) of this Section to provide adequate recycling areas shall apply to Construction Project(s) for which funds have been appropriated on or after the effective date of this Chapter for:

(i) A single alteration which is subsequently performed that adds to or modifies 20 percent or more of the existing floor area of the project; or

(ii) Multiple alterations which are conducted within a twelve-month period which collectively add to or modify 20 percent or more of the existing floor area of the project.

(4) Any cost associated with recycling areas pursuant to this subsection shall be the responsibility of the party or parties who are responsible for the cost of any alterations to accommodate their occupancy. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 705 repealed by Ord. 88-04)

SEC. 706. CONSTRUCTION AND DEMOLITION DEBRIS MANAGEMENT.

This requirement applies to all Construction Projects with a total projected cost of $90,000 or more at City-owned Facilities and new and existing city leaseholds. All City departments shall ensure that each Construction Project subject to

this Chapter shall minimize construction and demolition debris disposal in accordance with the following requirements:

(a) **Construction and Demolition Debris Management Plan.** The contract between the City department and the contractor shall require the contractor responsible for demolition to:

(1) Conduct a site assessment to estimate the types of materials that will be generated by demolition at the site that are anticipated to be feasible and practical for reuse and recycling, and

(2) Complete a plan as set forth in subparagraph (b) describing the procedures for disposal, reuse or recycling.

(b) **Plan Requirements.** The contract between the City department and the contractor shall require that:

(1) After award of the contract and prior to commencement of the demolition, the City project engineer shall meet with the contractor to develop a plan for managing construction and demolition debris to enable the City and the contractor to develop a mutual understanding regarding recycling and reuse.

(2) The contractor shall prepare and submit to the City project engineer a written construction and demolition debris management plan. The construction and demolition debris management plan shall include, but not be limited to the following information:

(A) Contractor and project identification information;

(B) Procedures to be used for debris management;

(C) A listing of the materials to be reused, recycled, or landfilled;

(D) An estimate of the quantities to be reused, recycled, or landfilled; and

(E) The names and locations of reuse and recycling facilities or sites.

(3) The construction and demolition debris management plan is subject to the approval of the City project engineer.

(c) **Recycling of Construction and Demolition Debris.** The contract between the City department and the contractor shall require that:

(1) The contractor shall develop and implement procedures to reuse and recycle materials to the greatest extent feasible based upon the contract, the construction and demolition debris management plan, the estimated quantities of materials, and the availability of recycling facilities.

(2) The contractor shall develop and implement programs for on-site or off-site recycling of source-separated materials, including asphalt, concrete, concrete block, and rocks; dirt and sand metals (ferrous and non-ferrous); wood; green materials (e.g., tree trimmings) and other materials as appropriate, such as red clay brick, corrugated cardboard, and wall board; mixed debris; and salvageable items. Prior to delivering materials, the contractor shall familiarize itself with the specifications for acceptance of construction and demolition materials at recycling facilities.

(3) Approval of the contractor's construction and demolition debris management plan by the City project engineer shall not relieve the contractor of the duty to comply with any other applicable laws regulating control or disposal of solid waste or other pollutants.

(d) **Summary of Diversion; Disposal.** The contract between the City department and the contractor shall require that:

(1) With each application for progress payment, the contractor shall submit a summary of construction and demolition debris diversion and disposal, quantifying all materials generated at the work site and disposed of in Class III Landfills, as defined in Title 27 CCR 20260, or diverted from disposal through recycling. Failure to submit supporting documentation in the form of weight slips or other similar proof shall render the application for progress payment incomplete and delay progress payment.

(2) The contractor shall be responsible for transporting and disposing of materials that cannot be delivered to a source-separated or mixed materials recycling facility to a transfer

station or disposal facility that can accept the materials in accordance with state law. No solid waste shall be burned, buried or otherwise disposed of on the project site.

(e) **Revenue.** Revenues or other savings obtained from recycled or reused materials shall accrue to the City department or the contractor as negotiated between them and embodied in the contract. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 706 repealed by Ord. 88-04)

SEC. 707. GREEN BUILDING DESIGN REQUIREMENTS FOR CONSTRUCTION PROJECTS.

Except as otherwise provided by the City's Charter,

(a) As described in this Chapter, the Leadership in Energy and Environmental Design (LEED™) rating system shall be used to measure the environmental performance of the City's municipal buildings. If there are substantive changes to the LEED™ rating system after the adoption of this ordinance, the Director shall recommend appropriate amendments to the Board of Supervisors.

(b) **Effective Date.** This section shall apply to Construction Projects for which an initial budget has been prepared on or after 120 days after the effective date of this ordinance.

(c) **Conceptual Design Assessment.** In accordance with the Compliance Guide and this Section, a City department proposing a Construction Project shall prepare a conceptual design assessment. The assessment will classify the proposed Construction Project as less than 5,000 square feet or 5,000 square feet or more.

(d) **Projects less than 5,000 square feet.** For Construction Projects with square footage less than 5,000 square feet, the conceptual design assessment shall provide for the maximum LEED™ *points practicable*. The proposing City department shall submit the assessment to the Task Force for informational and reporting purposes.

(e) **Projects of 5,000 square feet or more.** For Construction Projects with square footage of 5,000 square feet or more the following applies:

(1) **Conceptual Design Phase.** During the conceptual design phase, the proposing City department shall assemble a design team, which must include a LEED™ accredited professional. The LEED™ accredited professional member of the design team must prepare and submit to the Task Force for approval a conceptual design assessment. The conceptual design assessment must propose a LEED™ Silver rating or higher. The Task Force shall review the conceptual design assessment within 35 days of submittal.

(2) **Design Phase.** During the design phase, the proposing City department must retain an independent commissioning authority and provide the name of the commissioning authority to the Task Force. The proposing City department shall register the Construction Project with the USGBC as a LEED™ project.

(3) **Construction Documents Phase.** During the final construction documents phase, the LEED™ accredited professional member of the design team shall prepare and submit to the Task Force for approval a construction documents assessment that maintains a LEED™ Silver rating or higher. The Task Force shall review construction documents assessment within 35 calendar days of submittal, except for large complex projects for which a schedule will be determined upon submission.

(4) **Commissioning Process.** The City department and the independent commissioning authority for the project shall perform the Commissioning Process as described in the Compliance Guide.

(5) **Project Construction.** At the completion of construction, the City department shall submit the LEED™ documentation to the USGBC for certification. Upon receiving the rating from the USGBC, the City department shall submit it and the final LEED™ project checklist to the Task Force.

(f) **Annual Report.** No later than August 1 of each year, each City department with a Construction Project subject to this Chapter shall

submit a report to the Task Force in accordance with the Compliance Guide. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004) (Former Sec. 707 repealed by Ord. 88-04)

SEC. 708. WAIVERS.

Waivers from the requirements of this Chapter are available under the following circumstances:

(a) **Emergency.** A City department may grant itself a waiver from any requirement of this Chapter when it is necessary to respond to an emergency which endangers public health or safety. In such case, the City department shall report to the Director on a form provided by the Director regarding the emergency that prevented compliance with this Chapter within five business days.

(b) **Cost Prohibitive.** A City department may request a waiver from the Director on a form provided by the Director if compliance with this Chapter is cost prohibitive. The Task Force shall provide the Director with a recommendation with respect to the waiver request. The Director may grant a waiver upon a finding that the requesting department has:

(1) Demonstrated which specific requirements are cost prohibitive as weighed against the potential economic, environmental and health benefits posed by a particular requirement; and

(2) If applicable for Section 707, developed a reasonable plan to maximize the number of LEED™ points attainable.

(c) **Other.** If, due to specific circumstances, compliance would defeat the intent of this Chapter or create an unreasonable burden on the Construction Project or City department, the City department may request a waiver from that requirement from the Director on a form provided by the Director. The Task Force shall provide the Director with a recommendation with respect to the waiver request. The Director may grant a waiver upon a finding that the requesting Department has:

(1) Documented the circumstances and burdens at issue; and

(2) If applicable for Section 707, developed a reasonable plan to maximize the number of LEED™ points attainable.

The Director shall respond to a request for a waiver within 35 days.

(d) The Director shall report to the Commission on the Environment regularly on waivers requested, granted and denied. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004)

SEC. 709. DUTIES OF CITY DEPARTMENTS.

(a) Each City department, board and commission subject to this Chapter shall cooperate with, and provide in writing to the Department all information necessary for the Department to carry out its duties under this Chapter.

(b) Each City department shall designate a contact person for Construction Projects and green building communications.

(c) Appropriate City department personnel will attend Green Building related training offered by the Department. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004)

SEC. 710. REPORT TO THE BOARD OF SUPERVISORS.

Within three years of the effective date of this ordinance and every three years thereafter, the Director, in consultation with the Task Force and affected City departments and with input from members of the public who have asked to be informed by the Task Force or the Department, shall submit to the Board of Supervisors a report on the effects of this Chapter, including but not limited to the following:

(1) A description of the environmental performance of Construction Projects under the LEED™ rating system and of the pilot projects;

(2) A report of City departments' compliance with this Chapter, including a report on waivers;

(3) An assessment of whether this Chapter has achieved its stated goals; and

(4) Recommended changes, if any, to this Chapter. (Added by Ord. 88-04, File No. 030679, App. 5/27/2004)

CHAPTER 8: TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN

Sec. 800. Findings.
Sec. 801. Definitions.
Sec. 802. Contracts for Services.
Sec. 803. Purchase or Other Acquisition of Commodities.
Sec. 804. Contract Conditions.
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Sec. 806. Public Records.
Sec. 807. Penalty.
Sec. 808. Implementation Reports.
Sec. 809. Severability.

SEC. 800. FINDINGS.

The Board of Supervisors hereby finds and declares that:

(1) The world's equatorial tropical rainforests are the Earth's oldest and richest terrestrial ecological systems. The tropical rainforests are home to half of all the Earth's plant and animal species as well as thousands of indigenous tribal peoples.

(2) The tropical rainforests are being destroyed worldwide, through commercial logging, burning and overcutting, at a rate of 50,000 acres per day, and this rate is accelerating.

(3) Over ¼ of all rainforest destruction results from logging of the rainforests to support the international trade in tropical hardwoods.

(4) The United States is the third largest importer of tropical hardwoods.

(5) Deforestation of the tropical rainforests has been scientifically linked to atmospheric imbalance and global warming, known as the Greenhouse Effect, caused by increased concentrations of CO_2 in the global atmosphere. The effects of global warming include drought, floods, melting of the polar ice caps and changes in weather patterns worldwide.

(6) Destruction of the rainforest at the current rate results in the endangerment and extinction of 30 species of plant and animal life each day and a consequent loss of genetic diversity invaluable to the production of medicines and food products.

(7) Tropical rainforest deforestation causes the displacement of indigenous tribal peoples, many of whom have never before been contacted by the modern world. Displacement results in the death of these people and destruction of their culture, and loss of their intimate knowledge of commercial, medicinal and nutritional uses of rainforest species, which is often superior to that of any western-trained scientist.

(8) It is critical to the survival of the planet that the United States and other industrialized nations take immediate measures to curb consumption of tropical hardwoods in order to halt the deforestation of the rainforests and to avert irreversible global environmental destruction.

(9) Virgin redwood forests are an ancient and irreplaceable part of our State and national heritage that should be preserved for future generations.

(10) Virgin redwood forests provide the only surviving habitat for rare species such as the marbled murrelet and the northern spotted owl. In addition, these forests protect the streams that provide the increasingly rare habitat of dwindling numbers of salmon and steelhead.

(11) Only four percent of the virgin redwood forests originally found in the United States remain in existence, and these forests are under threat of destruction through commercial logging.

(12) Prohibiting the City and County's use of tropical hardwoods, tropical hardwood wood products, virgin redwood and virgin redwood wood products will contribute to a necessary reduction in the demand for these products. Such a prohibition would not create shortages of building supplies for the City, inasmuch as many acceptable non-tropical hardwood equivalents and non-virgin redwood equivalents are available.

(13) Many non-tropical hardwood equivalents are grown domestically in the United States. A prohibition on the City's use of tropical woods would therefore stimulate domestic business and create jobs for American timber workers.

(14) Under this Article the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with sound environmental policies and practices. The City enacts this Article to prohibit the use, requisition or purchase, directly or indirectly, by any City or County department or agency, of any tropical hardwoods or tropical hardwood wood products as well as virgin redwood or virgin redwood wood products.

(15) This Chapter applies the Precautionary Principle to the selection of lumber and wood products used in City operations in order to protect tropical and old-growth forest ecosystems. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.1; added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 801. DEFINITIONS.

As used in this Article, the following words and phrases shall have the meanings indicated herein:

"City" or "City and County" shall mean the City and County of San Francisco, or any department, board, commission or agency thereof.

"City funds" shall mean all monies or other assets received and managed by, or which are otherwise under the control of, the Treasurer, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the City and County.

"Commodities" shall include, but not be limited to, goods, commodities, materials, supplies and equipment.

"Contract" shall mean an agreement for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided, at the expense of the City and County or to be paid out of monies deposited in the treasury or out of trust monies under the control of or collected by the City and County.

"Contracting officer" shall mean that officer or employee of the City and County authorized under the Charter, the Administrative Code or the Municipal Code, to enter into a contract on behalf of the City and County. "Contracting officer" shall include the Mayor, each department head or general manager and other employees of the City and County authorized to enter into contracts on behalf of the City and County.

"Doing business in the City and County" shall mean entering into or seeking to enter into a contract with the City and County.

"Non-tropical hardwood equivalents" shall mean any and all hardwood other than virgin redwood that grows in any geographically temperate regions, as defined by the U.S. Forest Service, and is equivalent to tropical hardwood in density, texture, grain, stability or durability. Non-tropical hardwoods, the use or purchase of which shall be preferred under this Article, shall include, but not be limited to the following species:

Scientific Name	Common Name
Fraxinus americana	Ash
Tilia americana	Basswood
Fagus grandifolia	Beech
Betula papyrifera	Birch
Juglans cinera	Butternut
Prunus serotina	Cherry
Populus spp.	Cottonwood
Taxodium distichum	Cypress
Pseudotsuga menziesii	Douglas Fir
Ulmus spp.	Elm
Nyssa sylvatica	Black Gum
Liquidambar styraciflua	Red Gum
Celtis laevigata	Hackberry
Tsuga heterophylla	West Hemlock
Hicoria spp.	Hickory
Acer saccharum	Sugar Maple

Scientific Name	Common Name
Acer spp.	Soft Maple
Quercus spp.	Red Oak
Quercus spp.	White Oak
Hicoria spp.	Pecan
Pinus ponderosa	Ponderosa Pine
Pinus spp.	Yellow So. Pine
Liriodendron tulipifera	Yellow Poplar
Picea sitchensis	Sitka Spruce
Platanus occidentalis	Sycamore
Juglas nigra	Black Walnut

"Non-virgin redwood equivalents" shall mean any and all wood or wood product (including, but not limited to, wood from the species scientifically classified as "sequoia sempervirens") that is not a tropical hardwood or a tropical hardwood wood product and is equivalent to virgin redwood in density, texture, grain, stability or durability.

"Purchaser" shall mean the Purchaser of the City and County or any authorized representative of that official.

"Tropical hardwood" shall mean any and all hardwood, scientifically classified as angiosperme, that grows in any tropical moist forest. Tropical hardwoods, the use or purchase of which shall be governed by this Article, shall include, but not be limited to, the following species:

Scientific Name	Common Name
Vouacapoua americana	Acapu
Pericopsis elata	Afrormosia
Shorea almon	Almon
Peltogyne spp.	Amaranth
Guibourtia ehie	Amazaque
Aningeria spp.	Aningeria
Dipterocarpus grandiflorus	Apitong
Ochrama lagopus	Balsa
Virola spp.	Banak
Anisoptera thurifera	Bella Rosa
Guibourtia arnoldiana	Benge
Detarium Senegalese	Boire
Guibourtia demeusil	Bubinga
Prioria copaifera	Cativo
Antiaris africana	Chenchen
Dalbergia retusa	Concobolo
Cordia spp.	Cordia
Diospyros spp.	Ebony
Aucoumea klaineanal	Gaboon
Chlorophora excelsa	Iroko
Acacia koa	Koa
Pterygota macrocarpa	Koto
Shorea negrosensis	Red Lauan
Pentacme contorta	White Lauan
Shorea polysperma	Tanguile
Terminalia superba	Limba
Aniba duckei	Louro
Khaya ivorensis	African Mahogany
Swietenia macrophylla	American Mahogany
Tieghemella heckelii	Makore
Distemonanthus benthamianus	Movingui
Pterocarpus soyauxii	African Paduak
Pterocarpus angolensis	Angola Paduak
Aspidosperma spp.	Peroba
Peltogyne spp.	Purpleheart
Gonystylus spp.	Ramin
Dalbergia spp.	Rosewood
Entandrophragma cylindricum	Sapele
Shorea philippinensis	Sonora
Tectona grandis	Teak
Lovoa trichilioides	Tigerwood
Milletia laurentii	Wenge
Microberlinia brazzavillensis	Zebrawood

"Tropical rainforests" shall mean any and all forests classified by the scientific term "tropical moist forests," the classification determined by the equatorial region of the forest and average rainfall.

"Tropical hardwood wood products" shall refer to any wood products which are composed, in whole or in part, of tropical hardwood.

"Virgin redwood wood products" shall refer to any wood products which are composed, in whole or in part, of virgin redwood.

"Virgin redwood" shall mean wood from the species scientifically classified as "sequoia sempervirens" including but not limited to wood that

is graded "clear heart" or "clear all heart" (or any successor or equivalent terms) under lumber industry grading standards, unless such wood is either:

(a) Reclaimed or recycled; or

(b) Certified as sustainably harvested redwood by a certification organization that bases its standards on the principles and criteria of the United States Forest Stewardship Council.

"Wood products" shall refer to any wood products, wholesale or retail, in any form, including but not limited to veneer, plywood, furniture, cabinets, paneling, mouldings, doorskins, joinery, or sawnwood. As used herein, the following words and phrases shall have the meanings indicated herein:

(1) "Doorskin" shall mean a thin sheet of wood which is glued onto the frame of a door to form the face of the door.

(2) "Moulding" shall refer to decorative wood used around window and doorframes, ceilings, and corners.

(3) "Paneling" shall mean any thin sheet or sheets of attractive wood, intended to be used as wall covering, including any sheet consisting of a veneer glued onto some backing material.

(4) "Particle board" shall mean any wood sheet or board created by compressing wood chips and particles from logs, trees or industrial residue.

(5) "Plywood" shall mean any wood sheet created by gluing together thinner sheets (veneers) of any species.

(6) "Sawnwood" shall mean lumber or any form of wood which is sawn or chipped lengthwise in either a rough or smooth cut.

(7) "Veneer" shall mean a very thin slice of wood, between 1/16 inch to 1/125 inch in width, used in plywood, paneling, furniture exterior, and doorskins. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.2; added by Ord. 391-90, App. 12/6/90; amended by Ord. 278-96, App. 7/3/96; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 802. CONTRACTS FOR SERVICES.

(a) **Prohibited Transactions.**

(1) The City and County shall not enter into or renew any contract with any person or entity for the provision of services, the performance of which calls for the use of any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

(2) In the case of any bid proposal or solicitation, request for bid or proposal or contract for the construction of any public work, building maintenance or improvement for or on behalf of the City and County, the City shall not require or permit the use of any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

(3) Every bid proposal, solicitation, request for bid or proposal and contract for the construction of any public work, building maintenance or improvement shall contain a statement that any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in performance of the contract shall be deemed nonresponsive.

(b) **Nonapplicability; Findings; Alternates.**

(1) With respect to tropical hardwood and tropical hardwood wood products, Section 802 shall not apply to bid packages advertised and made available to the public or any competitive and sealed bids received by the City entered into prior to December 6, 1990. With respect to virgin redwood and virgin redwood wood products, Section 802 shall not apply to bid packages advertised and made available to the public or any competitive and sealed bids received by the City entered into prior to September 1, 1997.

(2) With respect to tropical hardwood and tropical hardwood wood products, Section 802 shall not apply to any amendment, modification or renewal of a contract, which contract was entered into prior to December 6, 1990, where such application would delay timely completion of a project or involve an increase in the total monies to be paid by the City and County under

that contract. With respect to virgin redwood and virgin redwood wood products, Section 802 shall not apply to any amendment, modification or renewal of a contract, which contract was entered into prior to September 1, 1997, where such application would delay timely completion of a project or involve an increase in the total monies to be paid by the City and County under that contract.

(3) The provisions of Section 802 shall not apply where the contracting officer finds that:

(A) No person or entity doing business in the City and County is capable of performing the contract using acceptable non-tropical hardwood equivalents or non-virgin redwood equivalents, as the case may be, in each case as defined under Section 801; or

(B) The inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of California or the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract;

(C) The use of tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products, as the case may be, is deemed necessary for purposes of historical restoration and there exists no available acceptable non-tropical wood equivalent or non-virgin redwood equivalent, as the case may be. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.3; added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 803. PURCHASE OR OTHER ACQUISITION OF COMMODITIES.

(a) **Prohibited Transactions.**

(1) The City and County shall not purchase or obtain for any purpose any tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products, wholesale or retail, in any form.

(b) **Exceptions.** This Section 803 shall not apply to:

(1) With respect to tropical hardwood and tropical hardwood wood products, any contract entered into prior to December 6, 1990; or

(2) With respect to virgin redwood and virgin redwood wood products, any contract entered into prior to September 1, 1997; or

(3) The purchase of any tropical hardwood or tropical hardwood product for which there is no acceptable non-tropical hardwood equivalent; or

(4) The purchase of any virgin redwood or virgin redwood wood product for which there is no acceptable non-virgin redwood equivalent; or

(5) Where the contracting officer finds that no person or entity doing business in the City and County is capable of providing acceptable non-tropical hardwood equivalents or non-virgin redwood equivalents, as the case may be, sufficient to meet the City's contract requirements; or

(6) Where the inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of California or the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.4; added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 804. CONTRACT CONDITIONS.

(a) All contracts involving wood or wood products entered into by any department of the City and County shall include as a material condition to that contract the following paragraph in the contract:

"Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Contractor shall not provide any items to the City in performance of this contract which are tropical hard-

woods, tropical hardwood wood products, virgin redwood or virgin redwood wood products."

(b) Every contract shall also contain a statement urging companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. This Subsection (b) shall not apply to contracts with public entities for the provision of water or power and related services. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.5; added by Ord. 391-90, App. 12/6/90; amended by Ord. 304-92, App. 9/29/92; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 805. RULES AND REGULATIONS.

(a) The Purchaser shall promulgate any rules and regulations necessary or appropriate to carry out the purposes and requirements of this ordinance. Each department, board and commission of the City and County shall cooperate with, and provide in writing to, the Purchaser, all information necessary for the Purchaser to promulgate such rules and regulations.

(b) All contracts shall incorporate this Article by reference whenever applicable and shall provide that the failure of any bidder or contractor to comply with any of its requirements shall be deemed a material breach of contract. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.6; added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 806. PUBLIC RECORDS.

Any and all documents and reports prepared pursuant to the requirements of this ordinance shall be made available for public inspection upon proper request, except those prepared for purposes of litigation. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.7; added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 807. PENALTY.

(a) Whenever any department of the City and County discovers, after an investigation by the contracting officer and the City Attorney, that a person or entity being considered for a contract or under contract with the City and County has, in connection with the bidding, execution or performance of any City contract (1) falsely represented to the City and County the nature or character of the wood products offered, used or supplied under the contract, or (2) provided the City with tropical hardwood, tropical hardwood wood products, virgin redwood or virgin redwood wood products in violation of this ordinance, the rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to the prohibition against the use or purchase of tropical hardwood, tropical hardwood wood products, virgin redwood or virgin redwood wood products, the contracting officer shall have the authority to impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this ordinance which shall include, but are not limited to:

(1) Refusal to certify the award of a contract;

(2) Suspension of a contract;

(3) Ordering the withholding of funds due the contractor under any contract with the City and County;

(4) Ordering the revision of a contract based upon a material breach of contract provisions or pertaining to representations made in bidding, execution or performance of the contract;

(5) Disqualification of a bidder or contractor from eligibility for providing commodities or services to the City and County for a period not to exceed five years, with a right to review and reconsideration by the contracting City office or department after two years upon a showing of corrective action indicating violations are not likely to reoccur.

(b) All contracts shall provide that in the event any bidder or contractor fails to comply in good faith with any of the provisions of this Article the bidder or contractor shall be liable for

liquidated damages in an amount equal to the bidder's or contractor's net profit under the contract, or five percent of the total amount of the contract dollars whichever is greatest. All contracts shall also contain a provision whereby the bidder or contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County upon demand and may be set off against any monies due to the bidder or contractor from any contract with the City and County of San Francisco. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.8; added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 808. IMPLEMENTATION REPORTS.

The Purchaser shall provide written reports on the implementation of this ordinance to the Board of Supervisors (1) at the first Board of Supervisors meeting held six months after this Article has taken effect; and (2) semiannually thereafter. Each department, board and commission of the City and County shall cooperate with, and provide in writing to, the Purchaser, whichever is appropriate, all information necessary for the Purchaser to prepare such reports. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.10; added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001)

SEC. 809. SEVERABILITY.

If any section, subsection, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court or federal or State agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12I.11; added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001)

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CHAPTER 9: [RESERVED]

Sec. 900.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.1; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

Sec. 901.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.2; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

Sec. 902.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.3; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

Sec. 903.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.4; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

Sec. 904.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.5; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

Sec. 905.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.6; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

Sec. 906.
(Added by Ord. 171-03, File No. 030422, App. 7/3/2003; repealed by Ord. 115-05, File No. 050595, App. 6/17/2005) (Derivation Former Administrative Code Section 12S.7; added by Ord. 214-01, File No. 011167, App. 11/2/2001)

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CHAPTER 10: TRANSPORTATION OF AGGREGATE MATERIALS

Sec. 1000. Findings.
Sec. 1001. Definitions.
Sec. 1002. Covering of Aggregate Materials Required.
Sec. 1003. Contract Requirements.
Sec. 1004. Enforcement.
Sec. 1005. Severability.

SEC. 1000. FINDINGS.

The Board of Supervisors finds and declares the following:

(a) Particulate matter and other air-borne materials have been shown to have an adverse impact on public health, including asthma and other respiratory illnesses; and

(b) Particulate matter and other air-borne materials may have negative impacts on the environment, particularly in ecologically sensitive areas; and,

(c) Vehicles transporting uncovered dirt and other aggregate materials may facilitate the release of particulate matter into the environment;

(d) Vehicles that transport dirt and other aggregate materials often drive through residential and ecologically sensitive areas; and,

(e) Covering loads of aggregate material during transit within the City would prevent the entrainment of particulate matter into the environment; and,

(f) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that its activities do not increase the amount of particulate matter present in residential and other ecologically sensitive areas. The City enacts this Chapter to require City Departments and City contractors to cover their loads when transporting dirt and other aggregate materials in the City.

(g) This Chapter applies the Precautionary Principle to the determination of best management practices when transporting aggregate materials for City construction projects to minimize negative impacts on air quality and human health. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12T.1; added by Ord. 3-02, File No. 011796, App. 1/18/2002)

SEC. 1001. DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply to the terms used herein.

(a) "Aggregate Material" shall mean rock fragments, pebbles, sand, dirt, gravel, cobbles, crushed base, asphalt, and other similar materials.

(b) "City" or "City and County" shall mean the City and County of San Francisco, or any department, board, commission or agency thereof.

(c) "Contract" shall mean a written agreement for services to be paid for or administered by the City that might require the transportation of aggregate materials in the City.

(d) "Contract awarding authority" shall mean the City officer, department, commission, employee or board authorized to enter into contracts on behalf of the City.

(e) "Contractor" shall mean any person who enters into a contract with the City.

(f) "Person" shall mean a natural person, a firm, joint stock company, business concern, association, partnership or corporation, its or their successors or assigns, or agents.

(g) "Subcontract" shall mean any agreement that is subordinate to the contract that involves the transportation of aggregate materials.

(h) "Subcontractor" shall mean any Person who enters into a subcontract with the contractor.

(i) "Vehicle" shall have the same meaning as that found in Section 670 of the California Code. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12T.2; added by Ord. 3-02, File No. 011796, App. 1/18/2002)

SEC. 1002. COVERING OF AGGREGATE MATERIALS REQUIRED.

Any City Department, Contractor, or Subcontractor operating any vehicle hauling aggregate material shall cover the load so as to prevent its contents from dropping, sifting, leaking, blowing, spilling, or otherwise escaping from the vehicle, regardless of the degree to which the vehicle is loaded. Aggregate materials shall only be carried in the cargo area of the vehicle. The cargo area shall not contain any holes, cracks, or openings through which the aggregate material may escape. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12T.3; added by Ord. 3-02, File No. 011796, App. 1/18/2002)

SEC. 1003. CONTRACT REQUIREMENTS.

As of the effective date of this Chapter, when the City enters into a contract or extends the terms of an existing contract, the contract shall obligate the Contractor to the following terms and conditions:

(a) Contractor agrees that it shall comply with the requirements of Section 1002 of this Chapter and agrees to include the requirements of Section 1002 in any subcontract which may involve the transportation of aggregate material.

(b) Contractors' failure to comply with the foregoing requirement shall constitute a material breach of the contract.

(c) In the event that Contractor or its Subcontractor is found to be in breach of this provision, Contractor shall be liable for liquidated damages in an amount equal to its net profit under the contract, or five percent of the total amount of the contract, whichever is greater. Such liquidated damages shall be payable upon demand, and may be withheld from monies owed to Contractor under the contract.

(d) Nothing in this Section shall be construed to limit any other remedies available at law to the City. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12T.4; added by Ord. 3-02, File No. 011796, App. 1/18/2002)

SEC. 1004. ENFORCEMENT.

Whenever the contract awarding authority discovers, after an investigation, that a contractor and/or subcontractor has violated the requirements of Sections 1002 and/or 1003 of this Chapter, the contracting awarding authority or her or his designee shall have the authority to impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this Chapter which shall include, but are not limited to:

(a) Termination or suspension of the contract;

(b) Ordering the withholding of funds due the contractor under any contract with the City and County;

(c) Disqualification of the contractor from eligibility for any contracts with the City for a period not to exceed five years, with a right to review and reconsideration by the City after two years upon a showing of corrective action indicating violations are not likely to reoccur. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12T.5; added by Ord. 3-02, File No. 011796, App. 1/18/2002)

SEC. 1005. SEVERABILITY.

If any section, subsection, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court or federal or State agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding

shall not affect the validity of the remaining portions thereof. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 12T.6; added by Ord. 3-02, File No. 011796, App. 1/18/2002)

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CHAPTER 11: [RESERVED]

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CHAPTER 12: URBAN FORESTRY COUNCIL

Sec. 1200. Purpose—Urban Forestry Council.
Sec. 1201. Scope of Authority.
Sec. 1202. Council Composition and Administration.
Sec. 1203. Responsibilities.
Sec. 1204. Urban Forest Plan.
Sec. 1205. Public Education and Outreach.
Sec. 1206. Best Management Practices.
Sec. 1207. Funding Assessment.
Sec. 1208. Staffing Support and Responsibilities.
Sec. 1209. Reporting Responsibility.

SEC. 1200. PURPOSE—URBAN FORESTRY COUNCIL.

(a) It is the intent of the Board of Supervisors to form an Urban Forestry Council that will protect the community interest and ensure that San Francisco realizes the full range of tree benefits into the future. The Board also intends to replace any existing tree advisory bodies that the Board of Supervisors has created through legislation.

(b) The purpose of the Council is to guide the stewardship of San Francisco's trees by promoting a healthy and sustainable urban forest that benefits all San Franciscans while ensuring public health and safety.

(c) To meet this purpose, the Council shall work with all the affected stakeholders to:

(1) Develop and adopt a comprehensive urban forest plan;

(2) Educate the public on urban forestry issues;

(3) Develop and adopt tree care standards;

(4) Identify funding and staffing needs and opportunities for urban forestry programs;

(5) Report on the state of the urban forest;

(6) Help secure and encourage commitment of adequate resources for tree programs; and

(7) Facilitate coordination among agencies with tree management responsibilities.

(d) This Chapter applies the Precautionary Principle to the management of trees in San Francisco by emphasizing public participation, preservation, and expansion of the urban forest. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.230; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1201. SCOPE OF AUTHORITY.

(a) The Council's scope of authority is limited to the territorial boundaries of the City and County of San Francisco.

(b) The Council shall consider issues as they relate to trees on property managed by government agencies, non-profit organizations, and private property owners.

(c) In order to effectively address the whole of the urban forest, the Council also shall consider issues as they relate to trees on private property.

(d) The Council's scope of authority is completely advisory and educational in nature. The Council will have no authority to legislate. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.231; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1202. COUNCIL COMPOSITION AND ADMINISTRATION.

(a) Council members will represent the full range of urban forest stakeholders including city agencies, non- profit organizations, and the business community. The Council shall be composed of fifteen (15) voting members as follows:

(1) Five (5) municipal agencies with representatives from:

(a) Director of the Department of Public Works;

(b) General Manager of the Recreation and Park Department;

(c) Director of the Planning Department;

(d) Director of the San Francisco Redevelopment Agency; and

(e) General Manager of the Public Utilities Commission.

(2) The Board of Supervisors shall appoint eight (8) members:

(a) One (1) member from an educational organization involved with tree management;

(b) One (1) representative of the tree management profession (International Society of Arboriculture, American Society of Landscape Architects, etc.);

(c) One (1) member from the Golden Gate National Recreation Area;

(d) Two (2) members of non-profit organizations involved in urban forestry or other environmentally-related issues; and

(e) Three (3) members at large.

(3) The Mayor shall appoint two (2) members:

(a) One (1) member from the tree care industry with a tree management professional affiliation and

(b) One (1) member at large.

(b) Council members shall serve for two years. Members can serve successive terms if reappointed by the body originally appointing the Council member. Council members serve at the will of the body that appoints each Council member as specified above. The body that appoints Council members also may appoint at-large members to serve any unfilled Council positions.

(c) The Council shall meet at least once each month.

(d) The Council shall establish its own operating procedures, which, at a minimum, shall meet the public notice, meeting, voting, agenda and other procedural requirements set forth in local law.

(e) Subcommittees shall be created to adequately address other special areas of concern on an as needed basis.

(f) The Department of the Environment, with adequate funding to assist the Council in carrying out its mission, shall provide professional and administrative staff to the Council.

(g) All members of the Council shall serve without compensation. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.232; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1203. RESPONSIBILITIES.

(a) The Council's responsibilities shall include, but not be limited to, the following:

(1) Advise the Mayor, Board of Supervisors, city departments and commissions on urban forestry concerns;

(2) Review project plans for major publicly-sponsored developments and civic improvements and changes to the public right-of-way as they may impact trees. Based on its review, the Council shall make recommendations regarding these projects to the Planning Department and other affected agencies;

(3) Establish criteria for a landmark/heritage tree program to provide for the protection of valuable trees on public and private property. The program shall propose administrative procedures and a tree removal appeal process for landmark/heritage trees;

(4) Adopt guidelines for protecting trees during project design and construction;

(5) Encourage early and continuous public participation in urban forestry projects and programs that includes consideration of neighborhood interests;

(6) Facilitate the cooperative interaction of tree-related activities among various city, State, and federal agencies, as well as among businesses, public utilities, non-profit organizations, and the public;

(7) Notify and involve public agencies when issues relate to trees on lands under their jurisdiction;

(8) Provide at designated Council meetings for a regular forum that follows an agenda of scheduled topics for public discussion of urban forestry issues;

(9) Assist with the formulation of legislation and policies that affect trees;

(10) Serve as a clearinghouse for information related to the urban forest through the Department of the Environment;

(11) Prepare the plans and reports as set forth in this legislation; and

(12) Assist agencies with tree management responsibilities in their efforts to incorporate and follow the urban forest plan guidelines, best management practices, and other Council recommendations and policies. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.233; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1204. URBAN FOREST PLAN.

(a) To assure well-guided stewardship of San Francisco's trees, the Council shall develop and adopt a long-term comprehensive plan that sets policy for the management of the City's public and private trees. This Urban Forest Plan shall be developed in consultation with affected City agencies and with input from interested members of the public.

(1) The planning process for such Plan shall include an assessment of the current condition of the urban forest and create a vision and goals that incorporate community values on urban forestry stewardship.

(2) The Planning process also shall include consideration of and referral to existing plans that relate to trees, including, but not limited to, plans for reforestation of parks and plans for street trees.

(3) The Plan shall include strategies and activities for achieving the envisioned urban forest. It shall include specific guidance to agencies and the public in developing education programs, establishing continuous and consistent tree care practices, identifying funding priorities and opportunities, and assuring that all needs of the urban forest are recognized and addressed.

(b) The Council shall oversee periodic updates to the Plan and evaluate the effectiveness of agencies in reaching the Plan's goals.

(c) Prior to adoption of the Plan or amendment thereto, the Council shall forward the plan and amendments to affected city agencies for review.

(d) The Council shall work with the Planning Department and the Department of the Environment to incorporate elements of the Urban Forest Plan into the City's General Plan.

(e) The Council shall work with the Recreation and Park Department and the Department of the Environment to incorporate elements of the Urban Forest Plan into the Recreation and Park Department's forestation plans. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.234; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1205. PUBLIC EDUCATION AND OUTREACH.

(a) To improve management by individual property owners and those who provide tree services to property owners, the Council shall assist with education programs. The Council shall design education programs for the public and tree care professionals to inform and gain public support for urban forestry programs.

(b) The Council shall promote trees as essential infrastructure with inherent value to the City of San Francisco. As infrastructure, trees will require consideration when designing and engineering public and private development projects.

(c) The Council shall promote an understanding of San Francisco's urban forest as habitat for the wild animals that make up a significant part of San Francisco's natural heritage.

(d) The Council's outreach shall include, but not be limited to, the following:

(1) Fostering an understanding of the value of trees;

(2) Promoting public understanding of City tree programs and laws;

(3) Working with the media to bring urban forest concerns and information to the public;

(4) Facilitating presentations, programs, and other outreach to property owners and the business and corporate community; and

(5) Promoting special events such as a city-wide Arbor Day. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.235; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1206. BEST MANAGEMENT PRACTICES.

(a) In an effort to establish and maintain a healthy and sustainable urban forest and ensure public health and safety, the Council shall develop and adopt tree care best management practices for public and private trees. The practices for tree maintenance shall focus on the protection of trees from premature death and irreversible damage caused by improper or inadequate tree maintenance.

(b) The Council shall develop the best management practices in consultation with affected City agencies and with input from interested members of the public. The Council's evaluation of such practices shall incorporate an analysis of the projected costs for implementation of the practices. The best management practices shall include, but not be limited to, the following:

(1) Species selection;

(2) Planting practices;

(3) Young tree care;

(4) Tree pruning and maintenance; and

(5) Tree removal.

(c) The Council, with the assistance of the Board of Supervisors, shall urge and encourage City, State, and federal agencies, as well as private property owners and tree care companies working in San Francisco, to adhere to the Council's management practices and tree care standards. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.236; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1207. FUNDING ASSESSMENT.

(a) The Board of Supervisors shall make efforts to provide adequate funding for the Department of the Environment's support of the Council.

(b) In the event funding is not allocated by the City and County of San Francisco for staffing the Council, the Council shall pursue funds for any shortfall in the necessary staffing and support activities and additional funds for any other project it deems necessary to implement this legislation.

(c) To ensure that adequate resources are available for tree management and that public funding is used wisely, the Council shall:

(1) Review urban forest program budget priorities and make recommendations about urban forest funding requirements to the Mayor, Board of Supervisors, and affected city departments and commissions;

(2) Investigate and pursue funding options for various urban forest activities;

(3) Assist agencies and organizations in securing funding for urban forest programs;

(4) Apply for and accept grants for public agency or privately sponsored urban forest programs pursuant to the procedures in the Administrative Code; and

(5) Determine whether there are opportunities to improve efficiency and eliminate possible redundancies among managing agencies through city-wide, coordination of tree operations. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.237; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1208. STAFFING SUPPORT AND RESPONSIBILITIES.

(a) A coordinator from the Department of the Environment shall staff the Council. The coordinator's responsibilities shall include, but not be limited to, the following:

(1) Fundraising;

(2) Developing and drafting guidelines for adoption;

(3) Preparing staff and annual reports;

(4) Coordinating with other agencies; and

(5) Develop an annual city-wide tree management budget for local governmental agencies.

(b) The coordinator is essential in order to implement the intent of this legislation. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.238; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

SEC. 1209. REPORTING RESPONSIBILITY.

(a) The Council shall report to the Board of Supervisors and Mayor by September 1st of each year regarding the state of the urban forest. The report shall contain a review the quality of urban forest stewardship and an assessment of how well public agencies and other urban forest managers are implementing the Urban Forest Plan. The report shall include, but not be limited to, the following:

(1) Condition of the urban forest, species composition, and other tree stand characteristics;

(2) Summary of urban forest activities, such as total number of trees, number of trees removed, and number of trees planted on private lands and under the jurisdictions of public agencies and non-profit organizations.

(3) Analysis of the adherence to the Urban Forest Plan;

(4) Analysis of the adherence to the best management practices;

(5) The Council's public education and outreach projects;

(6) Notable achievements in urban forest;

(7) The status of funding for urban forest programs; and

(8) Proposals for tree care guidelines or changes to adopted tree care programs or plans.

(b) City agencies and any non-profit organizations that accept city funding shall report to the Council regarding the trees they manage, the extent to which their management plans correspond to the Urban Forest Plan, and implementation of the best management practices. The Council shall receive the report no later than June 30 of each year. Other public entities also are urged to submit reports to the Council regarding the trees they manage.

(c) City agencies that do not adhere to the policies, guidelines, or standards outlined in the Urban Forest Plan or best management practices shall explain their reasoning at a public hearing before the Council.

(d) Within ninety (90) days of the Council's establishment, the Council shall adopt procedures to address the public hearing process specified in Subsection (c) above. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 5.239; added by Ord. 21-01, File No. 002106, App. 2/16/2001)

Editor's Note:

Ordinance 21-01, §§ 3 through 5, File No. 002106, App. 2/16/2001 contained the following provisions which were not codified as part of this Article XXIII:

"After six (6) years from the effective date of this legislation, the Board shall review the status of the Urban Forest Council. The Council shall continue to operate unless the Board, by ordinance, terminates this Article or creates a successor to the Urban Forestry Council.

This legislation shall not be operative unless and until funding becomes available for the Department of the Environment to fund the Urban Forestry Council coordinator position specified in San Francisco Administrative Code Article XXIII, Section 5.238 and associated staff support. Within six (6) months after funding becomes available, the Urban Forestry Council shall be appointed and established.

This legislation and its implementing actions shall not supersede provisions of the City's General Plan, Recreation and Open Space Element, Citywide System, Objective 2, Policy 13 concerning the preservation and protection of significant natural resource areas. In addition, this legislation and its implementing actions shall not supersede the reforestation program for Golden Gate Park as set forth in the Golden Gate Park Master Plan."

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CHAPTER 13: ARSENIC-TREATED WOOD

Sec. 1300. Findings and Purpose.
Sec. 1301. Definitions.
Sec. 1302. Environmentally Preferable Alternatives.
Sec. 1303. Purchase of Alternatives.
Sec. 1304. Exemptions.
Sec. 1305. Replacing Existing Structures; Management Program.
Sec. 1306. Report to Commission.
Sec. 1307. Report to Board of Supervisors.
Sec. 1308. Disposal.
Sec. 1309. Citywide Ban.
Sec. 1310. Guidelines.

SEC. 1300. FINDINGS AND PURPOSE.

The Board of Supervisors finds and declares that:

(a) Preservative-treated wood containing arsenic poses potential health risks to children in San Francisco who are potentially exposed to arsenic, a known human carcinogen, by playing on City wooden playground and park equipment. Studies conducted in California, Connecticut and Florida suggest that arsenic leaches from preservative-treated wood containing arsenic and can end up on children's hands and in their mouths.

(b) California Health and Safety Code Section 115775 requires that play structures constructed with preservative-treated wood containing arsenic be adequately sealed every two years.

(c) Preservative-treated wood containing arsenic poses potential human health and environmental risks through the release of arsenic during manufacture, installation, and disposal of wood.

(d) There are a variety of alternatives to preservative-treated wood containing arsenic compounds readily available throughout California.

(e) Preservative-treated wood is also used for saltwater immersion environments for structures such as pilings and piers, but until such time as a viable alternative is available, best management practices should be followed for these uses.

(f) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with its policies.

(g) This Chapter applies the Precautionary Principle to the selection and maintenance of pressure treated wood used to build City structures such as buildings, decks, fences, and play equipment by banning the use of arsenic-containing wood preservatives and requiring protective sealing of existing structures. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.1; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1301. DEFINITIONS.

Whenever used in this Chapter, the following terms shall have the meanings set forth below.

(a) "Preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative.

(b) "City Department" shall mean any department of the City and County of San Francisco. City Department does not include any other local agency or any federal or State agency, including but not limited to the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.

(c) "Commission" shall mean the Commission on the Environment provided for by San Francisco Charter Section 4.118.

(d) "Contract" means a binding written agreement, including, but not limited to a contract, lease, permit, license or easement between a person, firm, corporation or other entity, including a governmental entity, and a City Department for the purchase of preservative-treated wood.

(e) "Contractor" shall mean an individual, trust, firm, joint stock company, corporation, partnership, and governmental entities, to the extent allowable by law, that enters into a Contract with a City Department.

(f) "Department" shall mean the San Francisco Department of the Environment provided for by San Francisco Charter Section 4.118.

(g) "Saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.2; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1302. ENVIRONMENTALLY PREFERABLE ALTERNATIVES.

No later than March 30, 2003, the Department shall identify, prepare and adopt, at a public meeting, a list of environmentally preferable alternatives to preservative-treated wood containing arsenic. The list shall include information on specific wood preservatives, appropriate applications for each preservative, costs, product availability and another pertinent information. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.3; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1303. PURCHASE OF ALTERNATIVES.

Except as provided in this Section, after June 30, 2003, each City Department entering into a new Contract or extending the term of an existing Contract for the purchase of preservative-treated wood products, and each Contractor purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department pursuant to Section 1302 of this Chapter. A City Department or Contractor that purchases preservative-treated wood containing arsenic for saltwater immersion shall be exempt from this Section. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.4; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1304. EXEMPTIONS.

(a) On or after June 30, 2003, a City Department or Contractor may apply to the Department for an exemption from the ban on the purchase of preservative-treated wood containing arsenic imposed by Section 1303. The application for an exemption shall be filed on a form specified by the Department. The Department may grant the exemption upon a finding that the City Department or Contractor has:

(1) Made a good faith effort to purchase an alternative on the list adopted by the Department pursuant to Section 1302 of this Chapter; or has demonstrated that the alternative is not economically viable for the proposed use or is not practical in limited circumstances; and

(2) Developed a best management practice, including a plan for minimizing leaching or contact with human skin, if the exemption is granted. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.5; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1305. REPLACING EXISTING STRUCTURES; MANAGEMENT PROGRAM.

(a) No later than June 30, 2003, each City Department who owns or maintains playground equipment that is constructed with preservative-treated wood containing arsenic, where contact with human skin is likely, shall (i) take an inventory of such structures and develop a timeline and cost analysis for replacing these structures with non-wood alternatives or with alter-

natives on the list adopted by the Department pursuant to Section 1302 of this Chapter; (ii) develop a written management program for preservative-treated wood containing arsenic, including best management practices, schedules and protocols for testing for leaching of arsenic and chromium, sealing and posting of warning language where contact with human skin is likely and update this program on a regular basis; and (iii) provide the Department with copies of these documents.

(b) No later than June 30, 2003, each City Department who owns or maintains park structures other than playground equipment, including benches and picnic tables, that are constructed with preservative-treated wood containing arsenic, where contact with human skin is likely, shall develop a plan to inventory and manage, including sealing and replacement, such structures and submit that plan to the Department.

(c) No later than June 30, 2003, each City Department that owns or maintains facilities not addressed in Sections (a) or (b) above that are constructed with preservative-treated wood containing arsenic and where frequent contact with human skin is likely, shall take an inventory of its facilities and submit a plan to seal or replace such facilities. Each City Department subject to this Section shall provide the Department with a copy of the inventory and plan. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.6; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1306. REPORT TO COMMISSION.

No later than September 30, 2003, the Department shall report to the Commission on the progress of the programs and mandates directed by this Chapter. The report, at a minimum, shall include the following information:

(a) A list of the alternatives to preservative-treated wood containing arsenic pursuant to Section 1302.

(b) A list of City Departments and Contractors requesting an exemption to this Chapter.

(c) A summary of the reports submitted to the Department pursuant to Section 1305.

(d) Any other information deemed relevant to eliminating the risk of exposure to preservative-treated wood containing arsenic. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.7; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1307. REPORT TO BOARD OF SUPERVISORS.

No later than June 30, 2005, the Commission shall report to the Board of Supervisors on the progress of the programs and mandates directed by this Chapter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.8; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1308. DISPOSAL.

All City departments shall dispose of preservative-treated wood containing arsenic in an approved landfill and shall not make preservative-treated wood containing arsenic available for re-use, incineration or for use as wood chips or mulch. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.9; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1309. CITYWIDE BAN.

No later than June 30, 2003, the Department of Building Inspection and the Department shall investigate and report to the Commission on the possibility of imposing a citywide ban on the sale, purchase and installation of preservative-treated wood containing arsenic. At a minimum, the report shall contain an assessment of the legality, feasibility and cost implications of imposing a citywide ban. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.10; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

SEC. 1310. GUIDELINES.

The Department may issue guidelines, after a public meeting, to assist City Departments in the implementation of this Chapter. (Added by Ord. 171-03, File No. 030422, App. 7/3/2003) (Derivation Former Administrative Code Section 21G.11; added by Ord. 15-03, File No. 021791, App. 2/7/2003)

CHAPTER 14: CONSTRUCTION AND DEMOLITION DEBRIS RECOVERY ORDINANCE*

Sec. 1400. Findings.
Sec. 1401. Definitions.
Sec. 1402. Requirements.
Sec. 1403. Reserved.
Sec. 1404. Registration Requirement for Facilities and Transporters.
Sec. 1405. Registration Criteria.
Sec. 1406. General Terms and Conditions for Registered Facilities and Transporters.
Sec. 1407. Trade Secrets.
Sec. 1408. Reserved.
Sec. 1409. List of Registered Facilities and Registered Transporters.
Sec. 1410. Enforcement.
Sec. 1411. Reports.
Sec. 1412. Forms, Regulations and Guidelines.
Sec. 1413. Cost of Implementation.
Sec. 1414. Reserved.
Sec. 1415. Disclaimer of Liability.
Sec. 1416. Duties are Discretionary.
Sec. 1417. Severability.

Editor's Note:

Ordinance 27-06, File No. 051142, Approved February 16, 2006, from which Chapter 14 of this Code derives, shall take effect on July 1, 2006.

SEC. 1400. FINDINGS.

The Board of Supervisors finds and declares the following:

A. People who live in, work in or visit San Francisco generate 1.8 million tons of solid waste annually with more than half of these materials recovered through waste prevention, recycling and composting.

B. The State of California through its California Integrated Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials (base year 1990) from landfill. Every city and county in California, including the City, could face fines up to $10,000 a day for not meeting the above mandated goal.

C. The Source Reduction and Recycling Element (SRRE) for San Francisco adopted by the Board of Supervisors in 1992, recognized the importance of recovering wood, metals, and inerts from construction and demolition activities in order to meet the state mandated waste reduction goal.

D. The Board of Supervisors adopted Resolution No. 679-02 setting a goal of 75% diversion from landfill by 2010 and promoting the highest and best use of recovered materials and authorizing the Commission on the Environment to adopt a zero waste goal, which it set as 2020.

E. The Green Building Ordinance, Chapter 7 of the Environment Code, establishes LEED™ Silver level as the standard for all City building projects, which can include the goal of diverting 75% of construction and demolition debris from landfill for each project.

F. There are facilities both within the City and in nearby surrounding areas that can effectively reuse, recycle or otherwise recover the constituent elements of the materials generated by construction and demolition activity and thereby divert such materials from landfill.

G. Construction and demolition waste recovery programs reduce the amount of materials generated and hauled to landfill, decrease worker exposure to hazards, improve worker safety, reduce truck trips and traffic and improve air quality, thereby enhancing the health, safety and welfare of San Franciscans.

H. This Chapter requires construction and demolition debris to be transported by a registered vehicle and processed by a registered facility in order to ensure proper handling and to recover an additional estimated 100,000 tons from landfill disposal annually.

I. State law requires the California Integrated Waste Management Board to adopt a model construction and demolition debris ordinance and requires that Board to take into account a city's efforts to encourage or require recovery of construction and demolition debris in determining whether a city has met the mandated 50% recovery rate and other solid waste reduction and recycling requirements. This Chapter would help the City maintain the levels required by the state mandate and achieve the City's goals of 75% landfill diversion by 2010 and zero waste by 2020.

J. In keeping with the Precautionary Principle, codified in Chapter 1 of the Environment Code, this Chapter requires proper handling of construction debris as a deterrent to unsafe and wasteful practices. In this way, the City will create and maintain a healthy, viable environment for current and future generations, and will become a model of sustainability. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1401. DEFINITIONS.

For the purposes of this Chapter, the following words have the following meanings:

(a) "Alternative Daily Cover" or "ADC" shall mean materials, other than soil, that have been approved by the California Integrated Waste Management Board or a successor agency for use as an overlay on an exposed landfill face.

(b) "Bio-mass Conversion" shall mean the controlled combustion, when separated from other solid waste and used for producing electricity or heat, of wood, woodchips, woodwaste, tree and brush prunings. Bio-mass conversion does not include the controlled combustion of recyclable pulp or recyclable paper materials, sludge, medical or hazardous waste.

(c) "Construction and Demolition Debris" shall mean building materials and solid waste generated from construction and demolition activities, including, but not limited to, fully-cured asphalt, concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard and other associated packaging, roofing material, ceramic tile, carpeting, fixtures, plastic pipe, metals, tree stumps, and other vegetative matter resulting from land clearing and landscaping for construction, deconstruction, demolition or land developments. This term does not include; refuse regulated under the 1932 Refuse Collection and Disposal Initiative Ordinance or sections of the Municipal Code that implement the provisions of that ordinance; materials excavated from the public right-of-way; or, unless otherwise specified in Section 1402(b), materials source separated for reuse or recycling. Hazardous waste, as defined in California Health and Safety Code section 25100 et seq., as amended, is not Construction and Demolition Debris for purposes of this Chapter.

(d) "Department" shall mean the San Francisco Department of the Environment.

(e) "Director" shall mean the Director of the Department of the Environment or his or her designee.

(f) "Facility" shall mean a facility that receives and processes construction and demolition debris into its component material types for reuse, recycling, and disposal of residuals.

(g) "Person" shall mean a natural person, a firm, joint stock company, business concern, association, partnership or corporation or governmental entity, including the City and County of San Francisco and its departments, boards and commissions for projects within the geographic boundaries of the City, and its or their successors or assigns.

(h) "Recover" or "Recovery" shall mean any activity, including source reduction, deconstruction and salvaging, reuse, recycling and composting, which causes materials to be recovered for use as a resource and diverted from disposal.

(i) "Registered Transporter" or "Registered Facility" shall mean a person who holds a valid registration issued by the Director pursuant to this Chapter.

(j) "Transport" or "Transportation" shall mean transportation of construction and demolition debris, "Transport" or "Transportation" does not include transportation of less than one cubic yard of construction and demolition debris or

transportation in a vehicle that has no more than two axles and no more than two tires per axle.

(k) "Transporter" shall mean a person that transports construction and demolition debris as defined in this Chapter. "Transporter" does not include a person that owns the property at which the construction and demolition debris was generated.

(l) "Vehicle" shall mean a vehicle used to transport construction and demolition debris as those terms are defined in this Chapter. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1402. REQUIREMENTS.

(a) Except as provided in this Chapter, no person, other than the owner of the property where the construction and demolition debris was generated, may transport and no person may process construction and demolition debris unless that person has a registration from the Department as provided in this Chapter. Except as provided in this Chapter, all construction and demolition debris, regardless of transport or volume, must be processed at a registered facility.

(b) A person conducting full demolition of an existing structure must submit a waste diversion plan to the Director which provides for a minimum of 65% diversion from landfill of construction and demolition debris, including materials source separated for reuse or recycling which would otherwise not be subject to this Chapter. The plan may propose to use facilities and transporters that are not registered under this Chapter. The waste diversion plan must be submitted to the Director at the time the person applies for a demolition permit from the Department of Building Inspection and must include the following information: a list of all material types and volumes anticipated from the demolition; the market or destination for each material; the estimated recovery rate (diversion from landfill) by material or market; and the anticipated transporter for each material type. The Director shall make a determination as to the adequacy of the plan within five (5) business days and shall notify the Department of Building Inspection of its decision. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1403. RESERVED.

SEC. 1404. REGISTRATION REQUIREMENT FOR FACILITIES AND TRANSPORTERS.

(a) A person subject to Section 1402 shall apply for a registration by filing with the Director an application form prescribed by the Director, which contains the following information, and the information set forth in Section 1405.

(i) For construction and demolition debris processing facilities: the name and address of the person who owns the facility; the name and address of the person who operates the facility; a statement that the owner or operator has all permits, authorizations or licenses required by any local, state or federal agency to operate the facility and all necessary insurance.

(ii) For transporters of construction and demolition debris: the name and address of the person who owns the vehicle(s); a statement that the vehicle(s) and each operator has all permits, authorizations or licenses and any insurance required by any local, state or federal agency to operate the vehicle(s). An owner of a vehicle may obtain a single registration covering all vehicles and all debris boxes or other containers, provided that each vehicle is clearly and prominently marked as belonging to that owner (with the name of the business entity). The owner of the vehicle(s) is responsible for compliance by any operator of a vehicle owned by that person being used to transport construction and demolition debris.

(b) The person who owns the facility or the vehicle(s) must certify the accuracy of the information submitted in the application form under penalty of perjury.

(c) The Director must act on an application form within 15 days of receipt.

(d) If the Director determines that the information required by the application form is not complete, the Director will provide written notice to the potential registrant of the remaining information needed.

(e) If the Director determines that the application form is complete, the Director shall issue a registration containing the following minimum information: a reference to the general terms and conditions specified in Section 1406; the name and address of the registrant, the name and address of the facility (if applicable); the effective and expiration date of the registration; and a registration number assigned by the Director. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1405. REGISTRATION CRITERIA.

The owner of the facility or the transporter shall include the following information in the application form described in Section 1404.

(a) **For Facilities.**

(i) The facility meets an overall minimum recovery rate of 65 percent for construction and demolition debris (based on the most recent month), which may include materials used as ADC or bio-mass conversion, provided that the facility can demonstrate that the use as ADC or bio-mass conversion is the highest and best use. The recovery rate will be determined by the total quantity of materials delivered to established recycling and composting markets divided by the total quantity received by the registered facility. Highest and best use for ADC does not include ADC which is generated by intentional crushing or grinding of construction and demolition debris that has not been processed to remove wood, metal, wallboard, glass and other materials for which markets or uses other than ADC are available. Consistent with this section, the Director shall adopt regulations pursuant to Section 1412 to specify how the recovery rate will be calculated and when ADC or bio-mass conversion is considered to be the highest and best use of a particular material.

(ii) The facility has and is implementing a hazardous waste load checking program to minimize hazardous waste accepted at the facility.

(iii) The facility has no outstanding notices of violation from any federal, state or local agency that could affect the permits, authorizations or licenses required for its continued operation.

(iv) The facility agrees to submit annual reports to the Director on forms and by dates specified by the Director pursuant to Section 1412. The reports must include, with respect to San Francisco materials only, the following information; the total quantity of material received at the registered facility, the breakdown of all of the specific recycled commodities, the end use of the recycled commodity (reuse, recycling, composting, ADC, bio-mass conversion) landfill destination for residuals, and the recovery ratio for the report period by processing area.

(v) For each truckload received at a discrete facility processing area, the facility agrees to provide each vehicle with a uniquely numbered receipt specifying, at a minimum, the facility name and processing area, the quantity of material received and the current recovery rate for that processing area. The receipt will also include the identity of the transporter and the permit application number issued by the Department of Building Inspections, if any, associated with that load.

(vi) The facility agrees to comply with the provisions of this Chapter; provide documentation to support the information in the application form, including the Section 1404(b) certification, to the Director upon request; and allow the Director to make inspections of the facility in order to verify the information in the application form and required reports.

(b) **For Transporters.**

(i) The owner has no outstanding notices of violation from any federal, state or local agency that could affect the permits, authorizations or licenses required for continued operation of his or her vehicles.

(ii) The owner agrees to submit to the Director, upon request, the receipts specified in subsection (a)(v).

(iii) The owner agrees that for each truckload of materials delivered to a facility, the operator of the vehicle will provide to the facility the permit application number, if any, associated with that load.

(iv) The owner of the vehicle agrees to comply with the provisions of this Chapter; provide documentation to support the information in the application form, including the Section 1404(b) certification, to the Director upon request; and allow the Director to make inspections of vehicles in order to verify the information in the application form and reports.

(v) The owner agrees that all vehicles will operate in accordance with state and federal laws and motor carrier regulations and in accordance with best business practices to ensure against leakage and unsafe loads. All Construction and Demolition Debris must be transported in either a fully enclosed vehicle or container and must be covered to minimize any potential spillage or littering. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1406. GENERAL TERMS AND CONDITIONS FOR REGISTERED FACILITIES AND TRANSPORTERS.

The following terms and conditions shall apply to each registration:

(a) A registration is valid for two years.

(b) Each registrant must submit a registration renewal on a form specified by the Director thirty (30) days prior to the expiration date of the registration. Except as provided in this subsection, if a registrant submits a properly completed renewal form thirty (30) days prior to the expiration date, the current registration will continue in full force and effect until the Director issues a registration or all administrative and judicial appeals have been exhausted or the time for appeal has expired. A person may not renew a registration during a period of suspension, either by filing a renewal form or by operation of law. At the end of the suspension period, the person may apply for a registration.

(c) All records required to be kept by registered facilities and transporters shall be kept for at least three (3) years.

(d) A registration is not transferable.

(e) A registration does not take the place of any license required by state, federal or local law nor does compliance with the requirements of this Chapter relieve any party of compliance with any other applicable State, federal or local law.

(f) A copy of proof of registration shall be prominently displayed at any registered facility and kept in a registered vehicle.

(g) Within thirty (30) days of a change of any of the information required on a registration or renewal form, a registrant must file an amendment to the registration on a form prescribed by the Director.

(h) Each registrant must notify the Director, in writing, within twenty-four (24) hours of the time a permit, authorization or license required by any local, state or federal agency to operate the facility or vehicle terminates, expires or is revoked or suspended. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1407. TRADE SECRETS.

(a) If a person believes that any information required to be reported or disclosed by this Chapter contains a trade secret, the person shall provide the information to the Director and shall notify the Director in writing of that belief, detailing the basis of the belief as to each specific item of information the person claims is a trade secret. For purposes of this Chapter, "trade secret" shall have the same meaning as it has under state law. The person designating information as a trade secret shall specify a name and street address for notification purposes and shall be responsible for updating such information. The Director shall not disclose any properly substantiated trade secret which is so designated by a person except as required by this Chapter or as otherwise required by law.

(b) Information designated as trade secret may be disclosed to an officer or employee of the City and County of San Francisco, the State of

California, or the United States of America for use in connection with the official duties of such officer or employee acting under authority of law for the protection of health, without liability on the part of the City.

(c) When the Director or other City official or employee receives a request for information that has been designated as, or which the City determines may be, a trade secret, the City shall notify the person or business of the request. The City may request further evidence or explanation from the person as to why the information requested is a trade secret. If the City determines that the information does not constitute a trade secret, the City shall notify the person or business of that conclusion and that the information will be released by a specified date in order to provide the person or business the opportunity to obtain a court order prohibiting disclosure.

(d) In adopting this Chapter, the Board of Supervisors does not intend to authorize or require the disclosure to the public of any trade secrets protected under the laws of the State of California.

(e) This Section is not intended to empower a person or business to refuse to disclose any information, including but not limited to trade secrets, to the Director or other City Departments required under this Chapter.

(f) Notwithstanding any other provision of this Chapter, any officer or employee of the City and County of San Francisco, or former officer or employee or contractor with the City or employee thereof, who by virtue of such employment of official position has obtained possession or has had access to information, the disclosure of which is prohibited by this Section, and who, knowing that disclosure of the information is prohibited, knowingly and willfully discloses the information in any manner to any person or business not entitled to receive it, shall be guilty of a misdemeanor. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1408. RESERVED.

SEC. 1409. LIST OF REGISTERED *FACILITIES* AND REGISTERED TRANSPORTERS.

The Director will maintain a current list of registered facilities and registered transporters available at the Department's Office and on its website. The Director will update the list at least every sixty (60) days. The Director will work with the Department of Building Inspection and other City departments to ensure availability of this information to the public. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1410. ENFORCEMENT.

(a) The Director has authority to administer all provisions of this Chapter and to enforce its provisions by any lawful means available for such purpose. The Department of Building Inspection shall work together with the Director to coordinate enforcement of this Chapter with enforcement of relevant provisions of the Building Code.

(b) In order to carry out the provisions of this Chapter, the Director has the authority to inspect any registered facility or registered transporter. This right of entry will be exercised only at reasonable hours, and with the consent of the owner of the vehicle or facility or with a proper inspection warrant. The Director will inspect each registered facility and transporter at least once annually.

(c) **Suspension of registration.** Whenever the Director finds that information in a person's application, registration or any required report is inaccurate, a person does not have the appropriate permits, authorizations or licenses to operate the registered facility or vehicle, or that a person is violating or has violated this Chapter or the terms of a registration, the Director may issue an order suspending the registration as provided in this Section. The Director's order to suspend must include a written statement of the reasons for the suspension and must provide the person with an opportunity to respond in writing before the order becomes effective. The order shall provide the effective date and end date of the suspension. The suspension period will be no more than: one (1) month for the first violation; six (6) months for the second; and twelve months (12) for any subsequent violations. The Director's decision shall be final.

(d) A final decision of the Director to suspend a registration may be appealed to the Board of Appeals in the manner prescribed in Article 1 of the San Francisco Business and Tax Regulations Code. Any person who fails to appeal the Director's decision to the Board of Appeals within the time specified may not challenge a decision or final order of the Director in any judicial proceedings brought to enforce the decision or order or for other remedies.

Within ninety (90) days of the decision of the Board of Appeals, a person may file with a Court of competent jurisdiction a petition for writ of mandate to review the Board of Appeals decision, provided that the responsible party has exhausted its administrative remedies. Any person who fails to file a petition within this 90-day period may not challenge a decision or final order of the Board of Appeals in any judicial proceedings brought to enforce the decision or order or for other remedies. Section 1094.5 of the California Code of Civil Procedure shall govern any proceedings conducted pursuant to this Section. In all proceedings pursuant to this Section, the Court shall affirm the Board of Appeal's decision if it is based upon substantial evidence in the whole record. This Section does not prohibit the Court from granting any appropriate relief within its jurisdiction.

(e) The Director may request the City Attorney or the District Attorney, as the case may be, to commence an action to enforce this Chapter.

(i) **Civil Penalties.** Any person who violates this Chapter shall be civilly liable to the City and County of San Francisco for a civil penalty in an amount not to exceed one-thousand dollars ($1,000) for each day in which the violation occurs. Each day that such violation continues shall constitute a separate violation. For a second violation of the Chapter, the civil penalty will be not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) for each day in which the violation occurs. In determining civil penalties, the court shall consider the extent of harm caused by the violation(s), the nature and persistence of the violation(s), the length of time over which the violation(s) occur(s), the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.

(ii) **Criminal Penalties.** Each violation shall be considered a separate misdemeanor punishable by a fine not exceeding than one thousand dollars ($1,000), or imprisonment not to exceed six (6) months in the County Jail, or both. In determining criminal penalties, the court shall consider the extent of harm caused by the violation(s), the nature and persistence of the violation(s), the length of time over which the violation(s) occur(s), the frequency of past violations, any action taken to mitigate the violation, the financial burden to the violator, and such other factors as deemed relevant and material.

(f) Remedies under this Section are in addition to and do not supersede or limit any and all other remedies, civil or criminal. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1411. REPORTS.

Within two (2) years of the effective date of this Chapter, the Director shall report to the Commission on the Environment on the results of this ordinance, including the quantity recovered from landfill, and any recommended amendments of the ordinance. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1412. FORMS, REGULATIONS AND GUIDELINES.

(a) Consistent with the intent of this Chapter, and after consultation with other City departments, public notice and a public meeting, the Director may adopt forms, regulations, and guidelines as directed by this Chapter and as necessary and appropriate to implement this Chapter.

(b) The Department shall provide assistance and consulting to persons subject to this Chapter regarding compliance with this Chapter.

(c) The Director, consistent with this Chapter, may waive any specific requirement of this Chapter if the person seeking the waiver has demonstrated that strict application of the specific requirement would create practical difficulties not generally applicable to other persons in similar circumstances. The Director shall specify in writing the basis for any waiver under this Section. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1413. COST OF IMPLEMENTATION.

The Director shall determine the cost of implementing this Chapter. The Director may request that relevant City departments provide work orders to the Director to cover the cost of implementing and maintaining the program required by this Chapter. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1414. RESERVED.

SEC. 1415. DISCLAIMER OF LIABILITY.

The degree of protection required by this Chapter is considered to be reasonable for regulatory purposes. The standards set forth in this Chapter are minimal standards and do not imply that compliance will ensure proper handling of construction and demolition debris. This Chapter shall not create liability on the part of the City, or any of its officers or employees for any damages that result from reliance on this Article or any administrative decision lawfully made in accordance with this Chapter. All persons handling construction and demolition debris within the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1416. DUTIES ARE DISCRETIONARY.

Subject to the limitations of due process and applicable requirements of State or federal laws, and notwithstanding any other provisions of this Code whenever the words "shall" or "must" are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgement and discretion. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

SEC. 1417. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional. (Added by Ord. 27-06, File No. 051142, App. 2/16/2006)

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CHAPTER 15: GREEN BUSINESS PROGRAM

Sec. 1500. Findings.
Sec. 1501. Green Business Program.
Sec. 1502. Regulations.
Sec. 1503. Notice.
Sec. 1504. Disclaimer.
Sec. 1505. Penalties.

SEC. 1500. FINDINGS.

The Board of Supervisors and Mayor of the City and County of San Francisco wish to authorize the creation of a Green Business program in order for the City to encourage and recognize businesses that demonstrate environmental leadership, exceed minimum regulatory requirements and take voluntary steps to conserve natural resources and prevent pollution. (Added by Ord. 21-06, File No. 051818, App. 2/3/2006)

SEC. 1501. GREEN BUSINESS PROGRAM.

In compliance with this ordinance, the Department of Public Health, the Department of the Environment and the Public Utilities Commission are authorized to form a joint program to develop and implement a City-wide Green Business program to encourage and recognize businesses that: conserve the use of natural resources, such as electricity, water and fuel; reduce, reuse, recycle and compost materials; reduce the use and generation of hazardous materials and hazardous waste; and take affirmative steps to prevent pollution. The City departments shall use the Association of Bay Area Government's Bay Area Green Business Program as a model and baseline for San Francisco's Green Business program and may use more stringent standards and criteria. In developing and implementing the program, the departments shall target various business sectors operating in the City and may consult with: relevant federal, State, and regional agencies, such as the California Department of Toxic Substances Control and Bay Area Air Quality Management District; City departments that issue permits and enforce regulatory programs, including the Department of Building Inspection, the Fire Department and the Port of San Francisco; governmental land owners; and other interested entities such as the Association of Bay Area Governments and San Francisco's Small Business Commission. Only operations in the City which are in compliance with all City contracts, City-issued permits and laws; and are in compliance with all applicable environmental laws and regulations are eligible to participate in the program. A Green Business recognition will be valid for up to one year from issuance and may be extended for up to two additional years based on self-certification of continuing qualification by the business. At the end of the qualification period, the business must reapply. A Green Business recognition automatically terminates upon a change in ownership or if the business ceases operation at that location. In coordination with and on behalf of the participating departments, the decision of the Director of the Department of the Environment on whether a business qualifies as a Green Business shall be final. (Added by Ord. 21-06, File No. 051818, App. 2/3/2006)

SEC. 1502. REGULATIONS.

In coordination with and on behalf of the participating departments, the Director of the Department of the Environment, after a public hearing, shall adopt and may amend guidelines, rules, regulations and forms to implement a Green Business recognition program for various business sectors, including the application process, eligibility criteria and qualification as a Green Business. Eligibility and qualifications shall include, without limitation, thresholds and standards for: recycling and waste reduction; energy conservation; water conservation; and pollution prevention in light of feasible resources and technologies. Prior to adoption or amend-

ment of guidelines, rules or regulations, the Director of Public Health shall certify to the Director of the Department of the Environment that the guidelines, rules or regulations are consistent with local, state and federal environmental and health regulations and with the Department of Public Health's environmental and health objectives. The participating departments shall review eligibility and qualification criteria at least once every other year and the Director of the Department of the Environment shall amend the regulations as necessary. (Added by Ord. 21-06, File No. 051818, App. 2/3/2006)

SEC. 1503. NOTICE.

The Director of the Department of the Environment shall conduct outreach to all businesses that are eligible to participate in programs established under this Chapter and shall afford all eligible businesses the same opportunities to participate in the program. The Director of the Department of the Environment shall periodically post a list of Green Businesses on its website. (Added by Ord. 21-06, File No. 051818, App. 2/3/2006)

SEC. 1504. DISCLAIMER.

Recognition by the City of a business as a Green Business shall not be construed as an endorsement by the City of the business or confer any legal right or privilege to the business. The participating departments may discontinue any program established under this Chapter at any time. (Added by Ord. 21-06, File No. 051818, App. 2/3/2006)

SEC. 1505. PENALTIES.

False or misleading statements or misrepresentations made by any person regarding a business's eligibility or qualifications for or compliance with the Green Business program is a violation of this Chapter and is subject to an administrative penalty up to $500 per violation in addition to any other available remedies. In coordination with and on behalf of the participating departments, whenever the Director of the Department of the Environment finds that information in a business's application or any required submission is inaccurate or misleading or a business that has a Green Business recognition is violating or has violated the terms of the Green Business program eligibility or qualifications, the Director may revoke that business's recognition as a Green Business, which revocation shall be final. (Added by Ord. 21-06, File No. 051818, App. 2/3/2006)

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CHAPTER 16: FOOD SERVICE WASTE REDUCTION ORDINANCE

Sec. 1601. Title.
Sec. 1602. Definitions.
Sec. 1603. Prohibited Disposable Food Service Ware.
Sec. 1604. Required Biodegradable/Compostable or Recyclable Disposable Food Service Ware.
Sec. 1605. Implementation; City Contracts and Leases.
Sec. 1606. Enforcement and Penalties.
Sec. 1607. Report to the Board of Supervisors.
Sec. 1608. Operative Date.
Sec. 1609. Severability.
Sec. 1610. No conflict With Federal or State Law.
Sec. 1611. Undertaking for the General Welfare.

SEC. 1601. TITLE.

This Ordinance shall be known as the Food Service Waste Reduction Ordinance. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1602. DEFINITIONS.

(a) "Affordable" means purchasable for not more than 15 percent more than the purchase cost of the non-Biodegradable non-Compostable or non-recyclable alternative(s).

(b) "ASTM Standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended.

(c) "Compostable" means all the materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in San Francisco's Composting Program. Compostable Disposable Food Service Ware must meet ASTM-Standards for compostability and any bio-plastic or plastic like product must be clearly labeled, preferably with a color symbol, to allow proper identification such that San Francisco's compost collector and processor can easily distinguish the ASTM Standard Compostable plastic from non-ASTM Standard Compostable plastic. For the purposes of this ordinance the term biodegradable shall have the same meaning as compostable. This ordinance uses the terms biodegradable and compostable interchangeably and in all cases whether the terms are used separately, in the disjunctive or in the conjunctive they shall always be interpreted and applied consistent with this definition of the term "compostable".

(d) "City Administrator" means the City Administrator appointed under Section 3.104 of the Charter or his or her designee.

(e) "City contractors and lessees" means any person or entity that has a contract with the City for public works or improvements to be performed, for a franchise, concession or lease of property, for grant monies or goods and services or supplies to be purchased at the expense of the City and County, or to be paid out of monies deposited in the Treasury or out of trust monies under the control or collected by the City and County.

(f) "City Facility" means any building, structure or vehicle owned or operated by the City of San Francisco.

(g) "City Facility Food Provider" means an entity that provides, but does not sell, Prepared Food in City Facilities, including without limitation, San Francisco General Hospital, Laguna Honda Hospital, San Francisco County Jail and the San Bruno Jail Complex.

(h) "Disposable Food Service Ware" means all containers, bowls, plates, trays, carton, cups, lids, straws, forks, spoons, knives, napkins and

other items that are designed for one-time use for Prepared Foods, including without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by Food Vendors. The term "Disposable Food Service Ware" does not include items composed entirely of aluminum or polystyrene foam coolers and ice chests that are intended for reuse.

(i) "Food Vendor" means any Restaurant or Retail Food Vendor located or operating within the City and County of San Francisco.

(j) "Person" means an individual, trust, firm, joint stock company, corporation including a government corporation, partnership, or association.

(k) "Polystyrene Foam" means blown polystyrene and expanded and extruded foams (sometimes called Styrofoam™) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

(l) "Prepared Food" means food or beverages, which are serviced, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared (collectively "prepared") within the City and County of San Francisco for individual customers or consumers. For the purpose of this Chapter, Prepared Food includes take-out food, but does not include raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance.

(m) "Recyclable" means material that can be sorted, cleansed, and reconstituted using San Francisco's available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(n) "Restaurant" means any establishment located within the City and County of San Francisco that sells Prepared Food for consumption on, near, or off its premises. For purposes of this Chapter, the term includes a Restaurant operating from a temporary facility, cart, vehicle or mobile unit.

(o) "Retail Food Vendor" means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a Restaurant, located within the City and County of San Francisco that sells Prepared Food. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1603. PROHIBITED DISPOSABLE FOOD SERVICE WARE.

(a) Food Vendors may not sell Prepared Food in Disposable Food Service Ware that contains Polystyrene Foam.

(b) City Facility Food Providers may not provide Prepared Food in Disposable Food Service Ware that contains Polystyrene Foam.

(c) City Departments may not purchase, acquire or use Disposable Food Service Ware that contains Polystyrene Foam.

(d) City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1604. REQUIRED BIODEGRADABLE/COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE WARE.

(a) All Food Vendors using any Disposable Food Service Ware shall use a suitable Affordable alternative Biodegradable/Compostable or Recyclable product, unless there is no suitable Affordable Biodegradable/Compostable or Recyclable product available as determined by the City Administrator in accordance with this subsection. Not later than 30 days before the operative date of this Chapter, and after a public hearing, the City Administrator shall adopt a list of available suitable Affordable Biodegradable/Compostable or Recyclable alternatives for each product type. The City Administrator shall regularly update the list.

(b) All City Facility Food Providers and City departments using any Disposable Food Service Ware shall use Biodegradable/Compostable or Recyclable Disposable Food Service Ware unless there is no Affordable Biodegradable or Compostable product available as determined by the City Administrator in accordance with Subsection 1604(a).

(c) City contractors and lessees using any Disposable Food Service Ware shall use suitable Biodegradable/Compostable or Recyclable Disposable Food Service Ware in City Facilities and while performing under a City contract or lease unless there is no suitable Affordable Biodegradable/Compostable or recyclable product available as determined by the City Administrator in accordance with Subsection 1604(a). (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1605. IMPLEMENTATION; CITY CONTRACTS AND LEASES.

(a) The City Administrator is authorized to promulgate regulations, guidelines and forms and to take any and all other actions reasonable and necessary to implement and enforce this Chapter.

(b) Any person may seek a waiver from the requirements of Section 1604 of this Chapter by filing a request on a form specified by the City Administrator. The City Administrator, consistent with this Chapter, may waive any specific requirement of this Chapter for a period of up to one year if the person seeking the waiver has demonstrated that strict application of the specific requirement would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The City Administrator's decision to grant or deny a waiver shall be in writing and shall be final.

(c) All City contracts and leases, including without limitation, contracts with City Facility Food Providers, shall contain the following minimum language: "Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this agreement as though fully set forth. This provision is a material term of this agreement. By entering into this agreement, contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars ($100.00) liquidated damages for the first breach, two hundred dollars ($200.00) liquidated damages for the second breach in the same year, and five hundred dollars ($500.00) liquidated damages for-subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of contractor's failure to comply with this provision." (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1606. ENFORCEMENT AND PENALTIES.

(a) The City Administrator shall issue a written warning to any person he or she determines is violating Sections 1603(a) or 1604(a) of this Chapter. If after issuing a written warning of violation from the City Administrator, the City Administrator finds that person continues to violate the provisions of Sections 1603(a) or 1604(a), the City Administrator may apply for or impose the various sanctions provided in this Section.

(b) Any person who violates the provisions of Sections 1603(a) or 1604(a) of this Chapter shall be guilty of an infraction. If charged as an infraction, upon conviction thereof, said person shall be punished for the first offense by a fine of not more than $100.00 for a first violation; not more than $200.00 for a second violation in the same year and not more than $250.00 for each subsequent violation in the same year.

(c) The City Administrator may issue an administrative civil liability citation to such person in an amount not exceeding $100.00 for the first violation, an amount not exceeding $200.00 for the second violation in the same year, and an amount not exceeding $500.00 for each subsequent violation in the same year.

In determining administrative civil penalties, the City Administrator shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.

Any person to whom the City Administrator issues a written warning of violation or an administrative civil liability citation may request an administrative hearing to appeal such warning or determination of liability. Not later than 30 days before the operative date of this Chapter, and after a public hearing, the City Administrator shall promulgate rules and procedures for requesting and conducting an administrative hearing under this Chapter. In any administrative hearing under this Article, all parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to see and copy all documents and other information the City relies on in the proceeding, and to confront and cross-examine any witnesses against them. A decision by the hearing officer shall be final. Any person assessed a penalty under this subsection may contest such decision to the Superior Court within 20 days after service of the City's decision.

(d) The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter, including without limitation, civil penalties in an amount not exceeding $100.00 for the first violation, $200.00 for the second violation, and $250.00 for each subsequent violation in any given year.

(e) The City may not recover both administrative and civil penalties pursuant to Subsections (c) and (d) of this Section for the same violation. Penalties collected under Subsections (c) and (d) of this Section, which may include recovery of enforcement costs, shall be used to fund implementation and enforcement of this Chapter. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1607. REPORT TO THE BOARD OF SUPERVISORS.

No later than June 1, 2008, the Director of the Department of the Environment, in consultation with the City Administrator and with input from members of the public, shall submit to the Board of Supervisors a report recommending changes, if any, to this Chapter, including whether the ban imposed by this Chapter should be extended to other products, as supported by the report. If the Director recommends banning additional products, the report must include an estimate of the costs and benefits of compliance with a ban on additional products, including the increased costs to the City as well as to the City's food service industry. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1608. OPERATIVE DATE.

This ordinance shall become operative on June 1, 2007. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1609. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1610. NO CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this Ordinance shall be interpreted or applied so as to create any require-

ment, power or duty in conflict with any federal or state law. (Ord. 295-06, File No. 060944, App. 11/29/2006)

SEC. 1611. UNDERTAKING FOR THE GENERAL WELFARE.

In undertaking the implementation of this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 295-06, File No. 060944, App. 11/29/2006)

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CHAPTER 17: PLASTIC BAG REDUCTION ORDINANCE

Sec. 1701. Short Title.
Sec. 1702. Definitions.
Sec. 1703. Mandatory Use of Recyclable and Compostable Checkout Bags.
Sec. 1704. Implementation.
Sec. 1705. Enforcement and Penalties.
Sec. 1706. Operative Date.
Sec. 1707. Severability.
Sec. 1708. No Conflict with Federal or State Law.
Sec. 1709. Undertaking for the General Welfare.

SEC. 1701. SHORT TITLE.

This Ordinance shall be entitled the "Plastic Bag Reduction Ordinance." (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1702. DEFINITIONS.

For the purposes of this Ordinance, the following words shall have the following meanings:

(a) "ASTM Standard" means the American Society for Testing and Materials (ASTM)'s International standard D6400 for compostable plastic, as that standard may be amended from time to time.

(b) "Compostable Plastic Bag" means a plastic bag that (1) conforms to California labeling law (Public Resources Code Section 42355 et seq.), which requires meeting the current ASTM-Standard Specifications for compostability; (2) is certified and labeled as meeting the ASTM-Standard by a recognized verification entity such as the Biodegradable Product Institute; (3) conforms to requirements to ensure that the renewable based product content is maximized over time as set forth in Department of the Environment regulations; (4) conforms to requirements to ensure that products derived from genetically modified feedstocks are phased out over time as set forth in Department of the Environment regulations; and (5) displays the phrase "Green Cart Compostable" and the word "Reusable" in a highly visible manner on the outside of the bag.

(c) "Checkout bag" means a carryout bag that is provided by a store to a customer at the point of sale.

(d) "Department" means the Department of the Environment.

(e) "Director" means the Director of the Department of the Environment.

(f) "Highly visible manner" means (1) for compostable plastic bags, displaying both of the following in green lettering contrasting with the bag's background color that is at least two inches high: (i) the phrase "Green Cart Compostable" "either on the front and back of the bag together with a solid green band at least one-half inch thick circling the circumference of the bag, or repeatedly, as a band of text or text alternating with solid stripe, circling the circumference of the bag, and (ii) the word "Reusable" displayed on the front and/or back of the bag; and (2) for recyclable paper bags, displaying the words "Reusable" and "Recyclable" on the front and/or back of the bag in blue lettering contrasting with the bag's background color that is at least two inches high, and (3) for both compostable plastic bags and recyclable paper bags, as otherwise required by Department of the Environment regulations.

(g) "Person" means an individual, trust, firm, joint stock company, corporation, cooperative, partnership, or association.

(h) "Pharmacy" means a retail use where the profession of pharmacy by a pharmacist licensed by the State of California in accordance with the Business and Professions Code is practiced and where prescriptions (and possibly other merchandise) are offered for sale, excluding such retail uses located inside a hospital.

(i) "Recyclable" means material that can be sorted, cleansed, and reconstituted using San Francisco's available recycling collection pro-

grams for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

(j) "Recyclable Paper Bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber, (2) is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content, and (3) displays the words "Reusable" and "Recyclable" in a highly visible manner on the outside of the bag.

(k) "Reusable Bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is either (1) made of cloth or other machine washable fabric, and/or (2) made of durable plastic that is at least 2.25 mils thick.

(l) "Store" means a retail establishment located within the geographical limits of the City and County of San Francisco that meets either of the following requirements:

(1) is a full-line, self-service supermarket with gross annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items. For purposes of determining which retail establishments are supermarkets, the City shall use the annual updates of the Progressive Grocer Marketing Guidebook and any computer printouts developed in conjunction with the guidebook;, or

(2) is a retail pharmacy with at least five locations under the same ownership within the geographical limits of San Francisco. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1703. MANDATORY USE OF RECYCLABLE AND COMPOSTABLE CHECKOUT BAGS.

(a) All Stores shall provide only the following as checkout bags to customers; recyclable paper bags, and/or compostable plastic bags, and/or reusable bags.

(b) Violation of the requirements set forth in subsection (a) shall subject a Store to penalties set forth in Section 1705.

(c) Nothing in this section shall be read to preclude Stores from making reusable bags available for sale to customers. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1704. IMPLEMENTATION.

The Director, after a public hearing, may adopt and may amend guidelines, rules, regulations and forms to implement this Ordinance. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1705. ENFORCEMENT AND PENALTIES.

(a) Any person who violates this Ordinance shall be guilty of an infraction. If charged as an infraction, upon conviction thereof, said person shall be punished by (1) a fine not exceeding $100.00 for a first violation, (2) a fine not exceeding $200.00 for a second violation within the same year, and (3) a fine not exceeding $500.00 for each additional violation within the same year.

(b) In the event that the City adopts an ordinance creating a procedure for the City Administrator to impose and review Administrative Penalties pursuant to California Government Code Section 53069.4, the City may impose Administrative Penalties for violation of this Ordinance as follows: (1) in an amount not exceeding $100.00 for the first violation, (2) in an amount not exceeding $200.00 for the second violation in the same year, and (3) in an amount not exceeding $500.00 for each subsequent violation in the same year.

(c) The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Ordinance, including without limitation, civil penalties in an amount not exceeding $200.00 for the first violation, $400.00 for the second violation, and $600.00 for each subsequent violation in any given year.

(d) The City may not recover both administrative and civil penalties for the same violation. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1706. OPERATIVE DATE.

All of the requirements set forth in this Ordinance shall become operative as to Stores that are supermarkets six (6) months after its effective date. All of the requirements set forth in this Ordinance shall become operative as to Stores that are pharmacies one (1) year after its effective date. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1707. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1708. NO CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or state law. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

SEC. 1709. UNDERTAKING FOR THE GENERAL WELFARE.

In undertaking the implementation of this Ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Added by Ord. 81-07, File No. 070085, App. 4/20/2007)

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CITY AND COUNTY OF SAN FRANCISCO MUNICIPAL CODE

SUBDIVISION CODE



MUNICIPAL CODE CORPORATION

Tallahassee, Florida 2006

CITY AND COUNTY OF SAN FRANCISCO

MUNICIPAL CODE

Charter
Administrative Code
Building and Related Technical Codes
Business and Tax Regulations Code
Campaign and Governmental Conduct Code
Environment Code
Fire Code
Health Code
Municipal Elections Code
Park Code
Planning Code
Police Code
Port Code
Public Works Code
Subdivision Code
Traffic Code
Zoning Maps

Supp. No. 1, September 2006

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PREFACE TO THE

SUBDIVISION CODE

The San Francisco Municipal Code contains ordinances enacted through Ordinance 75-08, File Number 071531, Approved May 9, 2008. A legislative history, containing ordinance number and approval date, is located at the conclusion of most sections. The legislative history of ordinances approved after March 1999 also contain Board of Supervisors file numbers.

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Sec. 1303. Scope.
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Editor's Note:

Refer to Division 2 of the San Francisco City and County Subdivision Code for provisions regulating subdivision of land within the Mission Bay Project Area.

SEC. 1300. TITLE.

This Chapter shall be known as the "Subdivision Code of the City and County of San Francisco."

SEC. 1301. AUTHORITY AND MANDATE.

(a) This Code is adopted pursuant to the Subdivision Map Act of California, Title 7, Division 2 of the Government Code, commencing with Section 66410 (hereinafter referred to as "SMA").

(b) Any amendments to SMA, adopted subsequent to the effective date of this Code, shall not invalidate any provisions of this Code. Any amendments to SMA that may be inconsistent with this Code shall govern.

(c) This Code shall govern in relation to all other ordinances of the City and County of San Francisco and rules and regulations pursuant thereto. In the event of any inconsistency or conflict between the provisions of this Code and other provisions of the Municipal Code, the most restrictive shall prevail.

SEC. 1302. PURPOSES.

(a) This Code is enacted to establish procedures and requirements for the control and approval of subdivision development within the City and County of San Francisco in accordance with SMA.

(b) This Code is enacted to encourage and ensure the development of subdivisions consistent with the objectives of the San Francisco Master Plan.

(c) Recognizing that, by their unique character and impact on the City's population and housing stock, condominium conversion subdivisions differ from other subdivisions, implementation of Subsections (a) and (b) of this Section requires the adoption of special requirements for conversions, the purposes of which are:

(1) To preserve a reasonable balance of ownership and rental housing within the City and County of San Francisco by providing for an annual limitation on the number of units which may be converted to condominiums in any year.

(2) To promote the meaningful expansion of homeownership opportunities for existing tenants and to prevent the displacement of existing tenants by requiring a high degree of tenant intent to purchase their rental units as a condition of approval.

(3) To reduce the impact of conversions on nonpurchasing tenants who may be required to relocate, by providing for procedures for notification and adequate time and assistance for relocation, and providing for the reimbursement of costs resulting from such relocation.

(4) To prevent the displacement of elderly and disabled tenants by assuring them of extended leases to remain in their units subsequent to conversion.

(5) To assure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase.

(6) To prevent the effective loss of the City's low or moderate income housing stock by requiring sales price limitations on those units proposed for conversion which are found to be part of the low or moderate income housing stock.

(7) To expand the supply of the City's low or moderate income housing stock by provision of a minimum of 10 percent low or moderate income housing units in any condominium subdivision, or by construction of an equivalent number of such units elsewhere, or by in-lieu payments into a City housing development fund. (Amended by Ord. 337-79, App. 7/6/79; Ord. 161-01, File No. 010891, App. 7/9/2001; Ord. 281-04, File No. 041353, App. 12/1/2004)

SEC. 1302A. FAIR HOUSING REQUIREMENTS.

When making any decision regarding the control or approval of subdivision development within the City and County of San Francisco which includes "dwellings" as defined in Chapter 87 of the San Francisco Administrative Code, the applicable City department or official shall comply with that Chapter which requires, among other things, that the applicable City department or official not base any decision regarding the development of "dwellings" in which "protected class" members are likely to reside on information which may be discriminatory to any member of a "protected class" (as all such terms are defined in Chapter 87 of the San Francisco Administrative Code). (Added by Ord. 308-99, File No. 990499, App. 12/3/99)

SEC. 1303. SCOPE.

(a) This Code supplements SMA, prescribing rules, regulations and procedures authorized therein.

(b) The necessity for Tentative Maps, Final Maps and Parcel Maps shall be governed by this Section and SMA.

(c) For subdivisions creating five or more parcels or units, a Tentative Map and a Final Map or Parcel Map shall be required pursuant to this Code and SMA.

(1) A Tentative Map and a Final Map shall be required for all such subdivisions except those coming within the exceptions set forth in Section 66426 of SMA.

(2) A Tentative Map and a Parcel Map shall be required for all such subdivisions coming within the exceptions set forth in Section 66426 of SMA.

(d) For subdivisions creating fewer than five parcels or units, no Tentative Map shall be required except as provided in Section 1333.1(a) with respect to vesting tentative maps. In all subdivisions creating fewer than five parcels or units where the subdivider does not choose to file a vesting other Tentative Map, a Parcel Map containing the information specified by Section 1359 of this Code and SMA shall be required. Said Parcel Map shall be filed with the City Engineer and recorded according to the procedure set forth in Sections 1360 through 1364 of this Code.

(e) No Tentative Map, Final Map or Parcel Map shall be required for those specific types of subdivision exempted by Sections 66412 and 66428 of SMA; provided, however, that with respect to subdivisions described in Subsection (h) of Section 66412 of the SMA, certification pursuant to the provisions of Section 1397 must be obtained.

(f) The Director of Public Works shall waive the requirement of a Parcel Map for any improved or unimproved land shown on the latest equalized County assessment roll as contiguous units or parcels where the units or parcels have been subdivided legally and comply with the requirements as to lot width and area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection. (Amended by Ord. 576-85, App. 12/27/85)

SEC. 1304. ENFORCEMENT.

(a) It is unlawful for any person, firm, corporation, partnership or association to offer to sell or lease, contract to sell or lease, or sell or lease any subdivision or any part thereof until a Final Map or a Parcel Map thereof, in full compliance with the provisions of this Code and SMA, has been duly recorded in the office of the Recorder.

(b) All departments, officials and public employees of the City, vested with the duty or authority to approve or issue permits, shall conform to the provisions of this Code and shall neither approve nor issue any permit or license for use, construction, or purpose in conflict with the provisions of this Code. Any such permit or license issued in conflict with the provisions of this Code shall be null and void.

(c) Any subdivider, agent of a subdivider, successor in interest of a subdivider, tenant, purchaser, builder, contractor or other person who violates any of the provisions of this Code or any conditions imposed pursuant to this Code, or who knowingly submits incorrect information to endeavor to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding $2,000 or be imprisoned for a period not exceeding six months or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(d) The Director of Public Works shall have the authority to enforce this Code against violations thereof by any of the following actions:

(1) The Director may serve notice requiring the cessation or correction of any action in violation of this Code upon the subdivider, agent of the subdivider, successor in interest of the subdivider, tenant, purchaser, builder, contractor or other person who commits or assists in such violation;

(2) The Director may call upon the City Attorney to maintain an action for injunction to restrain or abatement to cause the correction of any such violation; and

(3) The Director may call upon the District Attorney to institute criminal proceedings in enforcement of this Code against any such violation.

(e) The current or former tenant or tenants of the property proposed for conversion may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages, and whatever other relief the Court deems appropriate. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the Court. The remedy available under this subsection shall be in addition to any other existing remedies which may be available to the tenant or tenants. (Amended by Ord. 86-81, App. 2/20/81)

SEC. 1305. SEVERABILITY.

(a) If any Article, Section, subsection, paragraph, sentence, clause or phrase of this Code, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, or other competent agency, such decisions shall not affect the validity or effectiveness of the remaining portions of this Code or any part thereof. The Board of Supervisors hereby declares that it would have passed each Article, Section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more Articles, Sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

(b) If the application of any provisions or provisions of this Code to any person, property or circumstances is found to be unconstitutional or invalid or ineffective in whole or in part by any court of competent jurisdiction, or other competent agency, the effect of such decision shall be limited to the person, property or circumstances immediately involved in the controversy and the application of any such provisions to other persons, properties and circumstances shall not be affected.

(c) This Section shall apply to this Code as it now exists and as it may exist in the future, including all modifications thereof and additions and amendments thereto. (Amended by Ord. 163-75, App. 4/28/75)

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ARTICLE 2: DEFINITIONS

Sec. 1306. General.
Sec. 1307. Government Agencies.
Sec. 1308. Subdivisions.
Sec. 1309. Terminology.

SEC. 1306. GENERAL.

Officials and agencies referred to in this Code and in SMA are officials and agencies of the City and County of San Francisco, unless the contrary is either stated or implied.

SEC. 1307. GOVERNMENT AGENCIES.

(a) "Advisory Agency" and "Director" mean the Director of Public Works.

(b) "Bureau of Building Inspection" and "BBI" mean the Bureau of Building Inspection of the Department of Public Works.

(c) "Bureau of Engineering" means the Bureau of Engineering of the Department of Public Works.

(d) "City Engineer" and "County Engineer" mean the City Engineer and his staff.

(e) "City Planning" means the Department of City Planning.

(f) "Clerk" means the Clerk of the Board.

(g) "County," "City," "City and County," "Municipality" and "Local Agency" mean the City and County of San Francisco.

(h) "County Surveyor" means the County Surveyor and his staff.

(i) "Governing Body," "Legislative Body" and "Board" mean the Board of Supervisors. (Amended by Ord. 284-04, File No. 041335, App. 12/14/2004)

SEC. 1308. SUBDIVISIONS.

(a) "Common areas" shall mean an entire project excepting all units therein granted or reserved.

(b) "Community Apartments" shall mean an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements thereon coupled with the right of exclusive occupancy of any apartment located therein.

(c) "Condominium" shall mean an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A Condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, or (3) and estate for years, such as a leasehold or subleasehold. This definition is intended to conform to Section 783 of the California Civil Code and any other section of California law.

(d) "Conversion" shall mean a subdivision which changes the type of ownership of real property to that defined as a Condominium project, Community Apartment project or Stock Cooperative and in which two or more condominiums, community apartments or units in a stock cooperative are newly created wholly or in substantial part within an existing structure or structures, regardless of the present or prior use of such structures and of whether substantial improvements have been made to such structures.

(e) "Project" shall mean the entire parcel or real property divided or to be divided in any of the methods defined as a subdivision.

(f) "Stock Cooperative" shall mean a corporation formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to

which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.

(g) "Subdivider" shall mean a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or for others. City agencies, including the San Francisco Redevelopment Agency, are exempted from this definition.

(h) "Subdivision" shall mean the division of any improved or unimproved land, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units even if it is separated by roads, streets, utility easements or railroad rights-of-way. This definition shall specifically but not exclusively include Condominiums, Community Apartments, Stock Cooperatives and Conversions.

(i) "Unit" shall mean the elements of a project which are to be owned individually and not in common with the owners of other elements of the project.

(j) "Tenant" shall mean a person or persons entitled under a lease, rental agreement or other agreement with the owner of record of the property or his or her agent to occupy a dwelling unit. A "tenant" can be an owner or a shareholder of the owner of record who resides in the property. For purposes of this definition, "Tenant" shall mean "Subtenant" as defined in Section 1308(k) where the subtenant occupies and resides in the unit in agreement with and to the exclusion of the tenant and with the consent of the owner.

(k) "Subtenant" shall mean a person or persons whose rights to occupy a dwelling are derived from the tenant rather than from the property owner or his or her agent.

(l) "Low-Income Housing Stock" shall mean those rental dwelling units in buildings being proposed for conversion for which the rent, at the time the application for conversion is filed, does not exceed 25 percent of the gross monthly income of a low-income household as defined in Section 1309(e). For purposes of applying this Section and Section 1309(e), a studio apartment shall be deemed to be a one-person household, a one-bedroom apartment shall be deemed to be a two-person household, a two-bedroom apartment shall be deemed to be a three-person household, and a three-bedroom apartment shall be deemed to be a four-person household.

(m) "Moderate-Income Housing Stock" shall mean those rental dwelling units in buildings being proposed for condominium conversion, the rental for which at the time of filing the application for conversion exceeds the amount which would cause the unit to be defined as low-income housing stock pursuant to Section 1308(l), but does not exceed 25 percent of the gross monthly income of a moderate-income household as defined in Section 1309(f). In relating the size of the unit to household size, the same relationships set forth for low-income housing shall apply.

(n) "Gross Income" shall mean all income from whatever source derived as provided in the Internal Revenue Code (26 U.S.C. Section 61) whether or not exempt from federal income tax.

(o) "Household" shall mean any person or persons who reside or intend to reside in the same housing unit.

(p) "Household of median income" shall mean a household whose combined annual gross income for all members does not exceed one hundred (100) percent of the median income for the San Francisco Metropolitan Statistical Area, as calculated by the United States Department of Housing and Urban Development (HUD) and adjusted for household size. (Amended by Ord. 337-79, App. 7/6/79; Ord. 426-89, App. 11/22/89; Ord. 161-01, File No. 010891, App. 7/9/2001; Ord. 203-02, File No. 021503, App. 10/11/2002; Ord. 281-04, File No. 041353, App. 12/1/2004)

SEC. 1309. TERMINOLOGY.

(a) "Affirmative Action in Housing" shall mean informational and promotional activity for the purpose of eliminating discrimination in hous-

ing accommodations because of race, religion, national origin, sex, or any other basis prohibited by law.

(b) "Application Packet" shall mean the Tentative Map together with all documents, statements and other matters that are required as attachments thereto.

(c) "Final Map" shall mean a map prepared in accordance with Chapter 2, Article 2 of SMA and this Code, which map is designed to be placed on record in the office of the Recorder.

(d) "Improvement Plan" shall mean an engineering plan or a set of engineering plans showing the location and construction details of improvements.

(e) "Low income" shall mean the income of households, as defined by Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household income does not exceed 80 percent of the median household income for the San Francisco Standard Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban Development and adjusted according to the determination of that Department pursuant to the Housing and Community Development Act of 1974.

(f) "Moderate income" shall mean the income of households, as defined by Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household income is greater than 80 percent but does not exceed 120 percent of the median household income for the San Francisco Standard Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban Development and adjusted according to the determinations of that Department pursuant to the Housing and Community Development Act of 1974.

(g) "Parcel Map" shall mean a map prepared in accordance with Chapter 2, Article 3 of SMA and this Code, which map is designed to be placed on record in the office of the Recorder.

(h) "Soil Engineer" shall mean a registered civil engineer, experienced in engineering geology, responsible for the soil engineering work outlined in this Code, including supervision, analysis and interpretation of field investigation and laboratory tests for a specific project; preparation of geological and soil engineering recommendations and specifications; and supervision of grading construction work.

(i) "Standard Specifications" shall mean the Standard Specifications of the Bureau of Engineering.

(j) "Subdivision Regulations" shall mean the detailed technical and administrative requirements adopted by the Advisory Agency to supplement this Code, including amendments thereto.

(k) "Tentative Map" shall mean a map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it; such a map need not be based upon an accurate or detailed final survey of the property.

(l) "Vesting tentative map" shall mean a tentative map which shall have at the time of filing printed conspicuously on its face the words "Vesting Tentative Map." (Amended by Ord. 576-85, App. 12/27/85; Ord. 38-88, App. 2/8/88)

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ARTICLE 3: GENERAL PROCEDURAL PROVISIONS

Sec. 1310. Advisory Agency.
Sec. 1311. Subdivision Regulations.
Sec. 1312. Exceptions.
Sec. 1313. Notice and Hearing.
Sec. 1314. Appeals.
Sec. 1315. Fees.

SEC. 1310. ADVISORY AGENCY.

(a) The Director of Public Works is hereby continued as the Advisory Agency.

(b) All maps, plans and reports required by this Code shall be filed with the County Surveyor. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1311. SUBDIVISION REGULATIONS.

(a) The County Surveyor and the City Engineer, with the assistance of other City agencies, shall prepare and publish the Subdivision Regulations, including amendments thereto, needed to supplement this Code.

(b) Such Regulations, including amendments thereto, shall be adopted by the Director after holding a public hearing. The decision of the Director in adopting the Subdivision Regulations, including amendments thereto, shall be final. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1312. EXCEPTIONS.

(a) Upon application by the subdivider, the Director may authorize exceptions to any of the substantive requirements set forth in this Code and in the Subdivision Regulations.

(b) Before granting any such exception in whole or in part, the Director shall hold a public hearing on the requested exception. Furthermore, he must find:

(1) That there are unusual circumstances or conditions affecting the property;

(2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(3) That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated; and

(4) That the granting of such exception has been determined by the City Planning Commission to be consistent with the Master Plan, after said Commission has held a public hearing.

(c) In granting any such exception, the Director shall designate the conditions under which the exception is granted.

SEC. 1313. NOTICE AND HEARING.

(a) Other than with respect to an application for a conversion including one or more residential units, the Director shall give notice in the following manner to the public and interested parties of each application for a Tentative Map, or for a Parcel Map for which a Tentative Map is not required. If the application is for a vesting tentative map, the notice shall so state.

(1) Notice of the Director's receipt of an application shall be published in at least one newspaper of general circulation within the City and County of San Francisco.

(2) Notice of the Director's receipt of the application shall be mailed or delivered to each local agency expected to provided water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the Director's receipt of the application shall be mailed or delivered to all owners of real property, as shown on the latest equalized assessment roll, within 300 feet of the real property that is the subject of the application. In lieu of utilizing the assessment roll the local agency may utilize records of the County

Assessor or Tax Collector which contain more recent information than the assessment roll. A copy of such notice shall be mailed to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant, if a different person. If the number of persons to whom notice would be mailed or delivered pursuant to this paragraph is greater than 1,000, the Director, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City and County of San Francisco at least 10 days prior to the hearing.

(4) Notice of the Director's receipt of the application shall be mailed or delivered to any person who has filed a written request for notice with the Director's office.

(b) The Department of City Planning shall publish, and shall give to the same persons and agencies as entitled to notice under Subsection (a), notice of the public hearing on a proposed Tentative Map for a Conversion which includes one or more residential units and shall also give similar notice to the tenants in the property proposed to be converted. If the application is for a vesting tentative map, the notice shall so state.

(c) When a public hearing is requested in writing by a person whose interest would be affected, within 10 days of the date that notice of an application subject to Subsection (a) of this Section was sent or published, the Director shall hold a public hearing with respect to the application in question.

(d) If the Director is required or elects to hold a public hearing with respect to an application, he or she shall give notice not less than 10 days prior to the hearing date as provided in Subsection (a) of this Section. If the application is for a Conversion, he or she shall also notify each tenant of the property proposed for Conversion and, if the Conversion is one for which a Tentative Map is not required, he or she need not notify owners of property within 300 feet as described in Section 1313 (a)(3).

(e) Other than applications for a Conversion which includes one or more residential units, all applications for a Tentative Map or for a Parcel Map for which a Tentative Map is not required, shall include, in addition to all other information required:

(1) A list of the names, assessor's lot and block numbers and mailing addresses of all those shown in the last equalized assessment roll as owning property within 300 feet of the property proposed to be subdivided.

(2) A 300-foot radius map delineating all the properties described in Subsection (c)(1).

(3) Three stamped envelopes preaddressed to each or the listed property owners, suitable for mailing notice of the application and of any hearing or appeal thereon. Blank Department of Public Works envelopes will be furnished to a proposed subdivider on request. Unused envelopes will be returned to the proposed subdivider on request.

(f) Any Department hearing required or permitted by this Code may, at the discretion of the Director be held jointly with the Department of City Planning.

(g) The provisions of this Section shall be superseded by those of any amendment to California Government Code Sections 65090 or 65091, or to any provision of the SMA, should the amended provisions require additional notice. (Amended by 576-85, App. 12/27/85)

SEC. 1314. APPEALS.

(a) The proposed subdivider, any tenant in a property for which a Conversion is proposed, and—other than with respect to a Conversion for which a Tentative Map is not required—any person who owns property within 300 feet of a proposed subdivision, may appeal to the Board from a final decision of the Director approving, conditionally approving, or disapproving a Tentative Map, or a Parcel Map for which a Tentative Map is not required. Any such appeal must be filed in writing with the Clerk of the Board within 10 days of release of the decision appealed, and must be accompanied by the fee specified in Section 1315(b) of this Code.

(b) The Director shall mail or deliver to the proposed subdivider, any tenant in a property for which a Conversion is proposed, and any person who owns property within 300 feet of a proposed subdivision, other than a Conversion for which a Tentative Map is not required, notice of: (1) his or her decision on any Tentative Map, or Parcel Map for which a Tentative Map is not required, and of any conditions which may have been incorporated in a conditional approval; (2) the right to appeal the Director's decision; and (3) the availability for examination of the Director's report.

(c) With respect to appeals under this Section, the Board shall schedule a hearing on the appeal to be held within 30 days after the appeal has been filed, and shall give notice as provided in Sections 1313 (a)(1) and 1313 (a)(2), and to the persons entitled to notice of the Director's decision under Section 1314 (b). (Amended by Ord. 427-85, App. 9/12/85).

SEC. 1315. FEES.

(a) Fees, payable to the Department of Public Works, shall be charged for checking and processing the maps, plans and reports, lot line adjustments, certificates of compliance, amended maps, records of survey, certificates of correction, and other actions and procedures set forth in California Government Code section 66451.2. Said fees shall be due at the time of filing an application. Failure to pay such fees shall result in a return of the application as incomplete to the applicant. The fee schedule is as follows:

(1) Air Space (four lots or less) is $8,598.00 with a fee of $500.00 for each additional lot;

(2) Lot Subdivision "Final Map" is $8,437.00;

(3) Condominium Conversion is $8,336.00;

(4) Parcel Map is $7,770.00;

(5) Lot Merger Re-subdivision is $6,943.00;

(6) Amended Map is $2,704.00;

(7) Lot Line Adjustment is $2,704.00;

(8) Lot Merger is $2,581.00;

(9) Certificate of compliance is $2,139.00;

(10) Certificate of correction is $2,139.00;

(11) Record of survey is $507.00; and

(12) Other actions not specified above, shall be based on actual costs that the Department incurs in administering and processing the action or procedure and shall be charged on a time and materials basis. The Department shall provide the applicant with a written estimate of said costs at the time of application, and the applicant shall pay such fees prior to the time that the application is deemed complete. To the extent that the estimated fees do not cover actual costs, any outstanding amount due shall be a condition of the Department's final decision on the action or procedure. To the extent that the estimated fees exceeded the actual costs, the Department shall refund the excess amount to the applicant within a reasonable period after the Department's final decision on the action or procedure.

(b) A fee of $250 shall be charged to defray costs of an appeal under Section 1314 of this Code.

(c) Payment of fees charged under this Code does not waive the fee requirements of other ordinances and rules and regulations pursuant thereto.

(d) There is hereby created a Subdivision Fund wherein all funds received under the provisions of this Section shall be deposited. All expenditures from the Fund shall be for engineering or technical investigations and equipment directly related to the checking and processing of the maps, plans, reports and parcel map waivers filed under this Code, and all such expenditures are hereby appropriated for said purposes.

(e) Additional Fees. In instances where administration or processing of any application, action, or procedure is or will exceed the fee amount established pursuant to subsection (a), the Director, in his or her discretion, may require an applicant or permittee to pay a sum in excess of the subject fee amounts. This additional sum shall be sufficient to recover actual costs that the Department incurs and shall be charged on a time and materials basis. The Director also may charge for any time and materials costs that other agencies, boards, commissions, or departments of the City, including the City Attorney's

Office, incur in connection with the processing or administration of a particular application, action, or procedure. Whenever additional fees are or will be charged, the Director, upon request of the applicant or permittee, shall provide in writing the basis for the additional fees or an estimate of the additional fees to be charged.

(f) Beginning with fiscal year 2006-2007, the fees which are established herein may be adjusted each year, without further action by the Board of Supervisors, to reflect changes in the relevant Consumer Price Index, as determined by the Controller. No later than April 15th of each year, the Director shall submit the Department's current fee schedule to the Controller, who shall apply the price index adjustment to produce a new fee schedule for the following year. No later than May 15th of each year, the Controller shall file a report with the Board of Supervisors reporting the new fee schedule and certifying that: (a) the fees produce sufficient revenue to support the costs of providing the services for which the fee is charged and (b) the fees do not produce revenue that exceeds the costs of providing the services for which each permit fee is charged. Notwithstanding the procedures set forth in this Section, the Board of Supervisors, in its discretion, may modify the fees at any time. (Amended by Ord. 427-85, App. 9/12/85; Ord. 142-89, App 5/3/89; Ord. 251-05, File No. 051460, App. 11/15/2005)

Sec. 1316.
(Added by Ord. 161-01, File No. 010891, App. 7/9/2001; amended by Ord. 203-02, File No. 021503, App. 10/11/2002; repealed by Ord. 281-04, File No. 041353, App. 12/1/2004; Ord. 251-05, File No. 051460, App. 11/15/2005)

ARTICLE 4: TENTATIVE MAPS

Sec. 1320. Pre-filing Conference.
Sec. 1321. Application Packet.
Sec. 1322. Tentative Map.
Sec. 1323. Tentative Map Documents.
Sec. 1324. Filing.
Sec. 1325. Referral to Other Agencies.
Sec. 1326. Time Limit for Agency Review.
Sec. 1327. Agency Report.
Sec. 1328. Subdivision Conference.
Sec. 1329. County Surveyor's Consolidated Report.
Sec. 1331. Advisory Agency's Report.
Sec. 1332. Hearings on Conversions; Master Plan.
Sec. 1333.1. Vesting Tentative Map Authorized.
Sec. 1333.2. Vesting Tentative Map Requirements.
Sec. 1333.3. Rights Conveyed.
Sec. 1333.4. Inconsistency with Ordinances and Other Standards.
Sec. 1333.5. Conditions.

SEC. 1320. PRE-FILING CONFERENCE.

Prior to filing a Tentative Map, the subdivider may elect to submit to the County Surveyor preliminary maps, plans and other data concerning a proposed subdivision. Within 14 days after the receipt of said material, the County Surveyor will hold a conference with the subdivider, City Planning and any other interested agencies to discuss the proposed subdivision. This procedure is optional and does not waive the requirements for filing a Tentative Map. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1321. APPLICATION PACKET.

The initial action in connection with the making of any subdivision for which a Tentative Map is required shall be the preparation of the Application Packet. Sections 1322 and 1323, and with respect to vesting tentative maps Sections 1333.2, of this Code cover the preparation of the component parts of said Application Packet. (Amended by Ord. 576-85, App. 12/27/85)

SEC. 1322. TENTATIVE MAP.

(a) The Tentative Map shall be prepared by a registered civil engineer or a registered land-surveyor.

(b) the Tentative Map shall contain the following data, in sufficient detail to enable the Director and other agencies to evaluate the proposed subdivision:

(1) Title;

(2) Explanatory Notes; and

(3) Topographic Map of the proposed subdivision and adjacent lands showing the existing conditions and the proposed changes.

(c) The Tentative Map shall conform to the Subdivision Regulations regarding detailed format and contents.

SEC. 1323. TENTATIVE MAP DOCUMENTS.

(a) Statement. A written statement shall contain the following information:

(1) Existing use or uses of the property, including whether or not there are existing tenancies and the conditions and terms thereof;

(2) Description of the proposed subdivision, including the number of lots or units, their sizes and intended uses, nature of the development, and the total area of the development represented by each use;

(3) The improvements proposed to be constructed or installed and the tentative schedule for the start and completion thereof;

(4) Whether the subdivider intends to file a Final Map or a Parcel Map;

(5) Description of variances and exceptions that are requested; and

(6) Certification that the subdivider or his or her agent shall not retain any right, title or interest in any common area or areas or facilities of the subdivision and its amenities, except those common areas in which the subdivider retains an individual interest by virtue of ownership of one or more of the units.

(b) Environmental Evaluation Data. Data shall be supplied on the appropriate City Planning forms for an Environmental Impact Evaluation or in appropriate format to satisfy requirements for environmental review under the California Environmental Quality Act. (Amended by Ord. 337-79, App. 7/6/79)

SEC. 1324. FILING.

(a) The Application Packet, together with the initial fee payment, shall be filed with the County Surveyor.

(b) The date of filing shall be the date when a complete Application Packet has been accepted by the County Surveyor.

(c) Upon date of filing the Application Packet shall become a Public Record. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1325. REFERRAL TO OTHER AGENCIES.

Within three working days after the Application Packet has been filed with the County Surveyor, the County Surveyor shall forward copies to City Planning, the Bureau of Engineering, the Bureau of Building Inspection, the Human Rights Commission and other appropriate government agencies for their review. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1326. TIME LIMIT FOR AGENCY REVIEW.

(a) The time limit for agency review shall 30 days from the date of receipt by said agency of a copy of the Application Packet.

(b) The time limit for agency review may be extended by mutual consent of the subdivider and the County Surveyor. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1327. AGENCY REPORT.

Each reviewing agency shall report, in writing, to the County Surveyor, with a copy to the subdivider, its findings on and recommendation for approval, conditional approval or denial of an Application Packet. City Planning's report shall include a finding on consistency with the Master Plan. The Bureau of Building Inspection's report shall include a finding on the necessity of a Preliminary Report. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1328. SUBDIVISION CONFERENCE.

Within six days after all agency reports have been received or after expiration of the review time limits or any mutually agreed extension thereof, the County Surveyor at his or her discretion may hold a subdivision conference to discuss the reports submitted. Written notice of such conference shall be sent to the subdivider, to all agencies who have submitted a report, and to other persons and organizations who have expressed an interest in the proposed subdivision. (Amended by Ord. 427-85, App. 9/12/85; Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1329. COUNTY SURVEYOR'S CONSOLIDATED REPORT.

(a) Whenever a subdivision conference is required, the County Surveyor shall submit to the Director a written report on the findings and recommendations discussed in the conference, attaching thereto copies of the reports from other agencies. A copy of said report shall be sent to each participant in the subdivision conference. Said report shall be submitted to the Director within four days after the subdivision conference.

(b) Whenever a public hearing is required, the County Surveyor shall submit to the Director, with a copy to the subdivider, a written report on the findings and recommendations received from the reviewing agencies, attaching thereto copies of the reports from said agencies. Said report shall be submitted within five days

after expiration of the review time limits. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1331. ADVISORY AGENCY'S REPORT.

(a) Within 50 days after the filing of the Tentative Map, unless the time has been extended by mutual consent of the subdivider and the Director, the Director shall report in writing on said map to the subdivider. Said report shall approve, conditionally approve or disapprove the Tentative Map. If the map is disapproved, the report shall also state the reasons for disapproval.

(b) Copies of the Director's report shall be sent to all agencies that submitted a report and to the Board.

SEC. 1332. HEARINGS ON CONVERSIONS; MASTER PLAN.

(a) The City Planning Commission shall hold a public hearing in the case of Conversions of five or more units which include one or more residential units. The City Planning Department shall give notice of such hearings as provided in Section 1313(b).

(b) Whenever a property is to be subdivided, the Department of City Planning shall report on the question of consistency of the subdivision with the Master Plan.

(c) The Director shall disapprove the proposed subdivision when the Department of City Planning finds that the proposed subdivision is not consistent with the Master Plan, subject to any decision on appeal by the Board of Supervisors.

(d) When the Department of City Planning finds, subject to any decision on appeal by the Board of Supervisors, or when the Board of Supervisors finds, that a proposed subdivision will be consistent with the Master Plan only upon compliance with certain conditions, the Director shall incorporate said conditions in his or her conditional approval of the proposed subdivision. (Amended by Ord. 427-85, App. 9/12/85)

SEC. 1333.1. VESTING TENTATIVE MAP AUTHORIZED.

(a) With respect to any subdivision for which a tentative map and final map are required under this Code, the subdivider may file instead a vesting tentative map and final map. With respect to any subdivision for which a parcel map is required under this Code, the subdivider may file instead a vesting tentative map and final map.

(b) Except as otherwise provided in Sections 1333.2 through 1333.5 of this Code, a vesting tentative map shall be subject to the same procedures, requirements and other Code provisions as any other tentative map. (Amended by Ord. 576-85, App. 12/27/85; Ord. 38-88, App. 2/8/88)

SEC. 1333.2. VESTING TENTATIVE MAP REQUIREMENTS.

(a) In addition to meeting the requirements otherwise applicable to tentative maps, any subdivider applying for approval of a vesting tentative map shall also file with the Department of Public Works:

(1) A site survey signed by a licensed surveyor or licensed engineer;

(2) Plot plans showing: (i) the location and scale of all structures existing or to be constructed or improved within the subdivision, and (ii) the location and scale of all structures on adjoining property, including the front and rear walls of all structures;

(3) Floor plans, elevations, sections, a parking plan and a roof plan for all structures existing or to be constructed or improved within the subdivision;

(4) Plan showing all landscaping, tree planting, off-street parking and screening existing or to be constructed or improved within the subdivision and on adjacent public rights-of-way; and

(5) Evidence that the proposed subdivider has obtained all of the following which will be sought or required in connection with the proposed subdivision or its design or improvements:

(A) Zoning reclassification(s) and amendment(s), including any such action affecting the existence, boundary or restrictions of a historic or conservation district;

(B) Amendments to the Master Plan, including any applicable institutional master plan;

(C) Conditional use approval(s) under the City Planning Code;

(D) Variance(s) or exception(s) under the City Planning Code;

(E) Amendment, repeal or adoption of setback(s);

(F) Completion of, or approval by the public entities involved of any vacation of a public street or other conveyance of public property or right-of-way which is proposed;

(G) Issuance or final approval of any special use, any coastal zone or Bay Conservation and Development Commission permission, any certificate of appropriateness under Article 10 of the City Planning Code or any other permit, license or approval, other than a building, site, demolition or other permit under the Building Code, which is prerequisite to carrying out the subdivision or its proposed design or improvements; and

(6) A complete application for environmental evaluation of the proposed subdivision and all development proposed on the site.

(b) No vesting tentative map application shall be complete until all the material specified by the preceding sentence has been received by the Department of Public Works. Failure to have obtained any item required by Subsection (a)(5) of this Section prior to applying for a vesting tentative map shall be grounds for disapproval of a vesting tentative map application. Application for, or approval of, any such item affecting the subdivision; which item was not contained in the application for a vesting tentative map may be grounds to invalidate the map and to deny any subsequent permit, license or approval for the subdivision where approval of the item would substantially affect the subdivision or the conditions of its approval. (Added by Ord. 576-85, App. 12/27/85)

SEC. 1333.3. RIGHTS CONVEYED.

(a) Approval of a vesting tentative map shall confer a vested right to proceed with development as provided, and only to the extent provided, in Section 66498.1(b) of the California Government Code, subject to Sections 66498.1(c) and 66498.1(d) of the California Government Code and the limitations and conditions thereof.

(b) The right referred to in Subsection (a) shall expire if a final map is not approved before expiration of the related vesting tentative map under California Government Code Section 66452.6. If a final map is approved, the right referred to shall continue during the following periods of time:

(1) One year from recording of the approved final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each when the final map for that phase is recorded. Where the City uses more than 30 days to process a completed application for a grading permit, this initial time period shall be extended by the processing time, counted from the date the application was completed.

(2) An additional period of not more than one year, if the proposed subdivider applies for such an extension at any time before the expiration of the period provided in Subsection (b)(1), and if the Department of Public Works determines that such extension will not prejudice the interests of the public or other private parties. If the Department of Public Works does not approve an application for extension within 30 days after receiving it, it shall be deemed disapproved. The proposed subdivider may appeal by filing a written appeal with the Clerk of the Board of Supervisors not later then 15 days after the disapproval. Any such appeal shall be heard at the time and under the procedural rules then applicable to appeals from denial of tentative maps.

(3) If the subdivider submits a complete building or site permit application before the expiration of the applicable period stated in Subsection (b)(1) or (b)(2), the period during which that application is being processed and the period of the life of any corresponding permit, or any extension thereof. For purposes of this subsection, no permit application shall be

complete until any required corresponding application for environmental evaluation has been completed and received by the Department of City Planning. (Added by Ord. 576-85, App. 12/27/85)

SEC. 1333.4. INCONSISTENCY WITH ORDINANCES AND OTHER STANDARDS.

(a) Whenever a proposed subdivider files a proposed vesting tentative map for a subdivision whose intended development is inconsistent with the Planning Code, that inconsistency shall be noted on the proposed map. The City may deny such a map based on the inconsistency.

(b) Notwithstanding any other provision of this Article, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies or standards applicable under Section 1333.3(a), and the City may grant such approvals or issue such permits to the extent permitted by otherwise applicable law. (Added by Ord. 576-85, App. 12/27/85)

SEC. 1333.5. CONDITIONS.

(a) Conditions on approval of a vesting tentative map may relate wholly or in part to any improvements or structures which may be constructed within, or associated with, the subdivision, as well as to the subdivision itself.

(b) Conditions may be required to be fulfilled before or after such filing of the related final or parcel map. Where such conditions are to be fulfilled after filing of the related final map, the subdivider shall furnish security for performance including but not limited to security satisfying the requirements of California Government Code Section 66499. (Added by Ord. 576-85, App. 12/27/85)

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ARTICLE 5: SUBDIVISION REQUIREMENTS

Sec. 1335. Public Facilities.
Sec. 1336. Utilities.
Sec. 1337. Beautification.
Sec. 1338. Recreation Facilities.
Sec. 1339. Easements.
Sec. 1340. Monuments.
Sec. 1340.1. Monument Preservation.
Sec. 1341. Low and Moderate Income Occupancy.
Sec. 1341A. Suspension of Provisions of Section 1341 With Respect to Certain Applications.
Sec. 1341B. Requirements for Resale of Converted Units On or After June 1, 1988.
Sec. 1342. Sales Program.
Sec. 1343. Policies and Procedures for Use of the Housing Development Fund.

SEC. 1335. PUBLIC FACILITIES.

(a) **General.** Public facilities listed in this Section shall meet the design and construction standards in the Subdivision Regulations.

(b) **Streets.**

(1) **Dedicated Public Streets.** A subdivision shall have direct access to a dedicated public street. Title to a new or widened dedicated public street shall be conveyed to the City by proper deed prior to approval of the Final Map.

(2) **Private Streets.** Easements for government facilities in private streets shall meet the requirements of Section 1339 of this Code.

(c) **Pedestrian Ways.** A pedestrian way through a block shall be required when the length of that block exceeds the criteria in the Subdivision Regulations.

(d) **Sanitary and Drainage Facilities.** The subdivider shall provide sewerage and drainage facilities, connected to City facilities, to serve adequately all lots, dedicated areas and all other areas comprising the subdivision.

(e) **Fire Protection.** The subdivider shall provide for the installation of fire hydrants, gated connections and other appurtenances and facilities needed for adequate fire protection, including a street fire-alarm box system.

(f) **Street Lighting.** The subdivider shall provide street-lighting facilities along all streets, alleys and pedestrian ways for the purposes of traffic safety and crime deterrence.

SEC. 1336. UTILITIES.

The subdivider shall provide a domestic water system, connected to the San Francisco Water Department's water distribution system. He shall also provide electric, gas and communication services connected to the appropriate public utility's distribution system.

SEC. 1337. BEAUTIFICATION.

(a) **Undergrounding of Utilities.** All new utility lines shall be undergrounded as specified in Article 18 of the Public Works Code.

(b) **Street Trees and Landscaping.** Trees planted along a public street, within the right-of-way, and all landscaping within said right-of-way shall conform to the requirements of Article 16 of the Public Works Code. In the case of all newly constructed subdivisions, the subdivider shall provide street trees and landscaping conforming to the policies of the Master Plan. Maintenance of said trees and landscaping shall be the responsibility of the abutting property owners.

(c) **Open Areas.** Where required pursuant to the Master Plan, the subdivider shall provide for the landscaping of open areas and the maintenance thereof. Such open areas shall be restricted to such use by recorded covenants which run with the land in favor of the future owners of the property within the subdivision. No such covenant shall be terminated without the consent of the Board.

SEC. 1338. RECREATION FACILITIES.

Recreation facilities provided in the subdivision for use by the residents shall be restricted to recreational use by recorded covenants as described in Section 1337(c) of this Code. Provisions shall be included in said covenants for maintenance of said facilities.

SEC. 1339. EASEMENTS.

Easements for sanitary and drainage facilities, fire protection facilities and city-owned street lighting faciltities shall be for the exclusive use of such governmental facilities, with the right of immediate access to the facilities by the City.

SEC. 1340. MONUMENTS.

(a) The location and installation of survey monuments shall conform to the standards in the Subdivision Regulations. When such monuments are "tied" to the City or State monuments, for which coordinates of the California Coordinate System are available, the corresponding coordinates for such monuments shall be determined and recorded.

(b) All survey monuments shall be installed prior to filing of the Final map or Parcel Map with the County Surveyor. In lieu thereof a monument bond shall be filed at that time. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1340.1. MONUMENT PRESERVATION.

The County Surveyor is hereby authorized to use monies collected in Administrative Code Section 10.100-50 for the exclusive purpose of undertaking actions related to a retracement or remonument survey of major historical vertical or horizontal land division lines upon which later surveys are based. Historical vertical or horizontal land division lines include, but are not limited to, government section lines, rancho lines, grant lines, rancho section lines, acreage subdivision lot lines, and subdivision boundary lines within the City and County of San Francisco, including those areas subject to the Mission Bay Subdivision Code and Hunters Point Shipyard Subdivision Code. (Added by Ord. 258-05, File No. 051461, App. 11/17/2005)

SEC. 1341. LOW AND MODERATE INCOME OCCUPANCY.

(a) In all subdivisions involving 50 or more lots or units, except for condominium or cooperative conversion subdivisions, the subdivider shall make available 10 percent of the units for low and moderate income occupancy provided that the Department of City Planning finds that governmental subsidies for such occupancy are available to the subdivider. This requirement shall not limit the authority of the City otherwise to encourage the provision of low and moderate income housing, or of the subdivider to make available additional low and moderate income housing.

(b) In all condominium or cooperative conversion subdivisions with five or more lots or units, the subdivider shall make available 10 percent of the lots or units for rental or for purchase by households of low or moderate income. In the event that the total number of units determined to be within the low or moderate income housing stocks pursuant to Section 1385 is greater that 10 percent of the total number of units in the subdivision, such greater number shall apply, and such number of units determined to be within the low or moderate income housing stock shall be made available for purchase as set forth in Section 1385, thereby precluding the application of the alternatives set forth in Section 1341 to such number of units. In the event the total number of units determined to be within the low or moderate income housing stock pursuant to Section 1385 is less than 10 percent of the total number of units in the subdivision, the difference between such number of units determined to be within the low or moderate income housing stock and the 10 percent required by Section 1341 may be satisfied by the alternatives set forth in this Section.

(c) If the units are to be made available for purchase, then the sales prices of such units shall not exceed 2.5 times the annual median income for low or moderate income households,

as defined, and as adjusted for household size according to the relationship to the size of the dwelling, as set forth in Section 1309. Priority for purchase of these units shall be as set forth in Section 1385. Any low or moderate income household which purchases a dwelling pursuant to this Section shall grant a right-of-first-refusal, to the City and County of San Francisco, or to such other entity that at a future time may be designated by the City and County of San Francisco, to repurchase the dwelling from the initial purchaser at the original price plus the cost of any improvements paid for by the owner, plus an increase proportionate to the increases in the housing component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," over the intervening time period. The City and County of San Francisco, or designated agent, shall reconvey such unit to other qualified purchasers if the right to purchase is exercised by the City or its designated agent.

(d) If the converted units are to be for rental, then the rent in such units shall not exceed the rent charged at the time of filing the application for conversion, or the maximum rent that would be allowed so as to keep the unit within moderate income housing stock, whichever rent level is lower. Once established, rent levels for any units remaining as rental pursuant to this Section may be increased annually consistent with any changes in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor." In cases of hardship to the subdivider, or in cases where a rent increase authorized herein is considered by the tenant to be not consistent with increases in the residential rent component of the Bay Area Cost of Living Index, either a subdivider or a tenant may request relief under this Section from the Director or his or her designee. In considering the reasonableness of a rent increase, the Director shall consider whether the rental revenues are sufficient to adequately maintain the building in safe and sound condition, and in conformity with any applicable sections of the San Francisco Housing and Building Codes. The Director may allow rent increases greater than the proportionate increases in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," in order to allow the building to be maintained in safe and sound condition. The rental increase provisions of this Section shall apply only in the absence of other applicable rent increase or arbitration laws.

(e) Converted units made available for purchase by households of low or moderate income pursuant to this Section, or purchased by a tenant or qualified household subject to the price limitation of Section 1385, shall remain within the low or moderate income housing stock pursuant to the recapture provision of Subsection (c) above. Units made available for rental pursuant to Subsection (d) above shall remain as rental units for no less than 20 years, provided, however, that such rental units may be sold by the original subdivider or any subsequent owner during such 20-year period at a price not exceeding the price at which the City and County of San Francisco would be entitled to repurchase the unit if exercising its right of first refusal under Subsection (c) above, and further provided that such maximum price shall not reflect the cost of any improvements made within two years after recording of the final or parcel map for the conversion.

(f) As an alternative to the provisions of Subsections (b) and (c) above, the subdivider shall make a bona fide agreement, satisfactory to the Department of City Planning, to construct or cause to be constructed within a period commencing 18 months prior to the date of filing the application for conversion and ending 18 months after filing of the final or parcel map, or to provide through other means, the same number of units and under the same conditions as would be required for low or moderate income occupancy under the provisions of Subsections (b), (c) and (d) above, in areas approved by the Department of City Planning as being non-impacted with assisted housing.

(g) As a further alternative to the provisions of Subsections (b), (c) and (f) above, the subdivider shall pay to the City and County of San Francisco an amount equal to 10 percent of the difference between the aggregated total of

the proposed market rate sales prices, as indicated on the price list supplied with the application packet, and the aggregate total of the sales prices if the units were to be sold at moderate-income sales prices, as determined by the sales price formula of Section 1385 and Subsection (c) above. This payment shall be made within two years of the recordation of the Final Map.

(h) Funds collected pursuant to Subsection (g) above, shall be deposited into the Housing Development Fund, which fund is to be used for persons and households of low or moderate income. (Amended by Ord. 45-82, App. 2/11/82; Ord. 148-88, App. 3/30/88; Ord. 257-88, App. 6/22/88)

SEC. 1341A. SUSPENSION OF PROVISIONS OF SECTION 1341 WITH RESPECT TO CERTAIN APPLICATIONS.

(1) The provisions of Section 1341 shall not apply to applications for initial conversion of residential units filed on or after June 1, 1988. For purposes of this Section, initial conversion shall mean the first time the parcel containing the subject units is converted to condominiums.

(2) The suspension of Section 1341 shall continue so long as the 200 unit annual conversion limit set forth in Section 1396 remains in effect. (Added by Ord. 257-88, App. 6/22/88)

SEC. 1341B. REQUIREMENTS FOR RESALE OF CONVERTED UNITS ON OR AFTER JUNE 1, 1988.

(1) This Section shall govern exclusively where the City and County of San Francisco, on or after June 1, 1988, exercises the right of first refusal under Section 1341(c) to repurchase converted units. This Section shall not apply, however, to any units which are the subject of an application for conversion filed on or after June 1, 1988.

(2) The following definitions shall apply:

(a) "Household" shall mean the person or persons who will permanently reside in the unit. Such persons shall include dependents as that term is defined in the Internal Revenue Code provided that said dependents permanently reside in the unit.

(b) "Eligible household" shall mean a household in which the combined gross income plus 10 percent of the value of all interests in real estate, notes receivable, bank accounts, stocks and bonds does not exceed the maximum allowable income for the household under Subsection (d) below at the time of purchase of the unit.

(c) "Gross income" shall mean all income from whatever source derived as provided in the Internal Revenue Code (26 USC § 61), whether or not exempt from federal income tax. Such income includes, but is not limited to, the following:

(1) Compensation for services, including fees, commissions, and similar items;

(2) Gross income derived from business;

(3) Gains derived from dealings in property;

(4) Interest;

(5) Rents;

(6) Royalties;

(7) Dividends;

(8) Alimony and separate maintenance payments;

(9) Annuities;

(10) Income from life insurance and endowment contracts;

(11) Pensions;

(12) Income from discharge of indebtedness;

(13) Distributive share of partnership gross income;

(14) Income in respect of a decedent; and

(15) Income from an interest in an estate or trust.

(d) "Maximum allowable income" shall mean 120 percent of the San Francisco Standard Metropolitan Statistical Area Median Income as published annually by the U.S. Department of Housing and Urban Development. The resulting figures may be adjusted upwards as necessary, not to exceed 15 percent, by the Director the Mayor's

Office of Housing in order to assure that eligible households qualify for financing by institutional lenders.

(e) "First-time buyer" shall mean a person who has not purchased any dwelling as a principal place of residence within the past three years as verified by federal tax returns for said three-year period.

(3) The Mayor's Office of Housing shall be responsible for administering the resale of and reconveyance of units converted to condominiums under Sections 1341 and 1385 of this Code, including the exercise of the City's right-of-first-refusal as to sales following the first sale of the unit referred to in Section 1341(c). The Mayor's Office of Housing shall, whenever possible, reconvey converted units to purchasers who qualify as eligible households. The Mayor's Office of Housing shall give preferential consideration to households with dependents and to first-time buyers. The Mayor's Office of Housing shall adopt a preferential rating system to accomplish this purpose.

(4) All purchasers must become owner occupants. (Added by Ord. 257-88, App. 6/22/88; amended by Ord. 400-89, App. 11/6/89)

SEC. 1342. SALES PROGRAM.

The sales program shall promote affirmative action in housing. The following aspects shall be included in the sales program:

(a) All sales and sales-related personnel for the project shall be trained in affirmative action sales policy and fair housing laws.

(b) An adequate part of the sales program shall be advertising designed to attract qualified minority buyers.

(c) If a waiting list is used, there shall be a public written statement of procedure as to how it is used.

(d) The sales program and sales procedures shall not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex or any other basis prohibited by law.

(e) Adequate records shall be maintained by the subdivider and made available to the Director of the Human Rights Commission during the period the subdivision is controlled by the subdivider, in order to show that such an affirmative action sales program is being carried out. Said reports shall be made in accordance with the Subdivision Regulations.

SEC. 1343. POLICIES AND PROCEDURES FOR USE OF THE HOUSING DEVELOPMENT FUND.

(1) **Purpose of the Fund.**

(a) To reduce the cost of construction of new residential structures, or rehabilitation of existing structures, so that dwelling units in such structures are affordable by persons and families of low and moderate income.

(b) To expand homeownership opportunities for persons and families of low or moderate income.

(c) The determination of what constitutes housing affordable to persons and families of low and moderate income shall be in accordance with the then-current Department of Housing and Urban Development guidelines.

(2) **Eligible Uses of the Fund.**

(a) Monies from the Fund may be made available to nonprofit housing corporations for the acquisition of available and feasible sites for developing low and moderate income housing and the rehabilitation of existing sites for low and moderate income housing.

(b) Monies from the Fund may be used for costs incident to the acquisition or rehabilitation of property, including, but not limited to, architectural and engineering costs.

(c) Any developer receiving monies from this Fund shall ensure that a minimum of 51 percent of the units in the project are made available to persons and families of low and moderate income.

(d) Monies may be used to pay the cost of administering the Fund, including the costs incurred by the the Mayor's Office of Housing in order to monitor those units which have been set

aside for persons and families of low and moderate income and to facilitate the resale of converted units.

(3) **Administration of the Fund.** The Fund shall be administered by the Mayor's Office of Housing.

(4) **Application for Loan or Grant Funds.** Any nonprofit corporation concerned with the construction of housing, or concerned with the provision of housing opportunities for low or moderate income persons, may make application to the Mayor's Office of Housing for the use of monies from the Fund to be applied in accordance with the provisions of this Section 1343.

Applications shall specify how monies from the Fund would make units affordable by persons or households of low or moderate income and shall specify how units assisted by the Fund would remain in occupancy by low or moderate income households.

Applications shall be reviewed by the Mayor's Office of Housing, whose decisions shall be final.

(5) **Authorization to Expend.** The Mayor and the Executive Director of the Mayor's Office of Housing shall approve expenditures from the Housing Development Fund. The funds are deemed appropriated solely for the purposes set forth in Subsections (1) and (2) above.

(6) **Interest.** Interest earned from the Housing Development Fund shall become part of the principal and shall not be drawn from the funds for any purpose other than that for which the Housing Development Fund is established.

(7) **Accrual of Monies in Fund.** Any unexpended balances remaining in the Housing Development Fund at the close of any fiscal year shall be deemed to have been provided for a specific purpose within the meaning of Section 6.306 of the Charter and shall be carried forward and accumulated in the Housing Development Fund for the purpose recited herein.

(8) **Reporting on Program Status.** The Mayor's Office of Housing shall report quarterly to the Board of Supervisors on the current status of the Fund, the amount approved for disbursement, the number and types of projects assisted, and shall make recommendations for any changes deemed necessary to improve the effectiveness of the Fund in achieving its purpose. (Amended by Ord. 168-86, App. 5/16/86; Ord. 257-88, App. 6/22/88; Ord. 400-89, App. 11/6/89)

ARTICLE 6: IMPROVEMENT REQUIREMENTS

Sec. 1345. General.
Sec. 1346. Improvement Plans.
Sec. 1347. Construction.
Sec. 1348. Failure to Complete Improvements Within Agreed Time.
Sec. 1349. Inspection and Testing Fees.
Sec. 1350. Fees for Construction of Planned Facilities.

SEC. 1345. GENERAL.

(a) The subdivider shall provide for the construction and installation of all improvements in the subdivision.

(b) The subdivider shall file an improvement bond whenever all such work has not been completed prior to the filing of the Final Map.

SEC. 1346. IMPROVEMENT PLANS.

(a) Prior to filing of the Final Map, the subdivider's engineer shall submit any required improvement plans to the City Engineer for approval.

(b) Improvement plans shall be prepared under the direction of a registered civil engineer.

(c) Improvement plans shall conform to the Subdivision Regulations regarding format, size and contents.

(d) Any specifications supplementing the Standard Specifications shall be considered a part of the improvement plans.

(e) Within 14 days after submittal by the subdivider's engineer the City Engineer shall return to the subdivider's engineer a set of the submittal improvement plans noting thereon his approval, disapproval or conditional approval of said plans. This time limit may be extended by mutual agreement.

SEC. 1347. CONSTRUCTION.

(a) No construction shall commence until the improvement plans have been submitted to the City Engineer and have been approved by him.

(b) Construction of improvements which are to be accepted by the City for maintenance shall be subject to inspection by the City Engineer.

(c) Any work done by the subdivider prior to approval of the improvement plans, including changes thereto, or without the inspection and testing required by the City Engineer is subject to rejection. Such work shall be deemed to have been done at the risk and peril of the subdivider.

(d) Installation of Underground Facilities. All underground facilities including sewerage and drainage facilities and excepting survey monuments installed in streets, alleys or pedestrian ways shall be constructed prior to the surfacing of such street, alley or pedestrian way. Service connections for all underground utilities and sewers shall be laid to such length as will obviate the necessity for disturbing the street, alley or pedestrian way improvements when service connections are completed to properties in the subdivision.

SEC. 1348. FAILURE TO COMPLETE IMPROVEMENTS WITHIN AGREED TIME.

The provisions of Section 206(b) of the Public Works Code apply to this Article regarding extensions of time and liquidated damages when improvements are not completed within the agreed time.

SEC. 1349. INSPECTION AND TESTING FEES.

(a) The costs of inspecting the construction of improvements under Section 1347(b) of this Code shall be paid by the subdivider.

(b) The costs of testing the materials incorporated in the improvements under Section 1347(b) of this Code shall be paid by the subdivider.

SEC. 1350. FEES FOR CONSTRUCTION OF PLANNED FACILITIES.

(a) As a conditions for approval of a Final Map, fees shall be required to defray the actual or estimated construction or reconstruction costs of the following planned facilities to serve the general area in which said subdivision is located:

(1) Sanitary and drainage facilities;

(2) Bridges; and

(3) Major thoroughfares.

(b) Such fees shall equal the subdivision's prorated share of the actual or estimated construction costs of said facilities.

ARTICLE 7: FINAL MAPS AND PARCEL MAPS

Sec. 1355. Time Limit for Submittal.
Sec. 1356. Final Map.
Sec. 1357. Certificates on Final Map.
Sec. 1358. Preliminary Soil Report.
Sec. 1359. Parcel Map.
Sec. 1360. Check Prints.
Sec. 1361. Map Check.
Sec. 1362. Filing.
Sec. 1363. Submittal to Board.
Sec. 1364. Recordation.

SEC. 1355. TIME LIMIT FOR SUBMITTAL.

Within 18 months after the approval of the Application Packet, unless such time has been extended, the Final Map or Parcel Map shall be filed with the County Surveyor. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1356. FINAL MAP.

(a) The Final Map shall consist of the Title Sheets and Map Sheets.

(b) The Title Sheets shall contain the following data:

(1) The title, consisting of the name of the subdivision and the location;

(2) A general description of all the property being subdivided by references to recorded deeds or to recorded maps;

(3) Certificates, affidavits and acknowledgements; and

(4) General information including a key map when there is more than one Map Sheet.

(c) The Map Sheets shall contain the following data, in sufficient detail so that the sale, transfer and description of real property may be accomplished by reference to the Final Map and that all public facilities, properties and easements may be determined as to location, extent and condition:

(1) Title;

(2) Explanatory and Description Notes; and

(3) Map.

(d) The Final Map shall conform to the requirements of Chapter 2, Article 2 of SMA and to the Subdivision Regulations regarding detailed format and contents.

SEC. 1357. CERTIFICATES ON FINAL MAP.

(a) In addition to the certificates required by SMA, the following certificates shall be on the Final Map.

(1) City Attorney's Certificate;

(2) Advisory Agency's Certificate; and

(3) A Certificate of Agreement. Whenever the conditional approval of the Application Packet includes conditions which are to be met after the recordation of the Final Map, a certificate signed by the subdivider agreeing to perform said conditions, which are listed on the certificate, shall be required. (Amended by Ord. 337-79, App. 7/6/79)

SEC. 1358. PRELIMINARY SOIL REPORT.

(a) A Preliminary Soil Report, prepared by a soils engineer or a registered engineering geologist, and based upon test borings and excavations done at the subdivision site, shall contain the following elements:

(1) The specific geologic and soil conditions within and immediately adjacent to the subdivision;

(2) Indication and delineation of critically expansive soils or other soil problems which, if not corrected, may lead to defects in structures, buildings and other improvements;

(3) Report on the suitability of the earth material for the construction of stable embankments and excavation slopes, together with recommended construction procedures needed to obtain the required stability; and

(4) Report on slides, springs and seepage conditions, faults and erosion problems, together with recommendations for correction of any problems or hazards presented by such conditions.

SEC. 1359. PARCEL MAP.

(a) The requirements of Subsection (c) of Section 1356 of this Code shall apply to Parcel Maps.

(b) The Parcel Map shall conform to the requirements of Chapter 2, Article 3 of SMA and to the Subdivision Regulations regarding detailed format and contents.

(c) In the case of Conversions where a Tentative Map is not required, the requirements of Section 1314 and the requirements of Article 9 on Conversions shall apply, provided that hearings as provided in Sections 1313 and 1332 shall not be required, and the 10-percent low and moderate income occupancy as provided in Section 1341 shall not be required, and provided further that Article 9 shall not be applied to two-unit buildings where both units are owner-occupied for one year prior to the application for Conversion. The Director of Planning, however, shall make the determination pursuant to Section 1385 concerning preservation of low and moderate income housing.

(d) In addition to the requirements of Subsection (c), the owners of record of a two-unit building conversion that qualify for the exemption from Article 9 must certify under penalty of perjury and the Department must verify with the Rent Stabilization and Arbitration Board, and with the Human Rights Commission as applicable, that since November 16, 2004, no eviction as defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For purposes of this Subsection a "senior" shall be a person who is 60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Subsection as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician.

(e) If the owners of record cannot satisfy the requirements of Subsection (d), then the owners of record shall comply with Article 9, including its Section 1396.1(g)(3), prior to submitting an application for Conversion.

(f) If the Department determines that an applicant has knowingly provided false material information under Subsection (d) above, the Department shall immediately deny the application, or if the applicant has submitted an application for conversion, shall immediately deny the application for conversion. Moreover, the Department, the Director, or other authorized person or entity may also enforce the provisions of this Subsection under Section 1304 or any other applicable provision of law as warranted. (Amended by Ord. 427-85, App. 9/12/85; Ord. 426-89, App. 11/22/89; Ord. 161-01, File No. 010891, App. 7/9/2001; Ord. 281-04, File No. 041353, App. 12/1/2004)

SEC. 1360. CHECK PRINTS.

(a) Prior to filing of the Final Map or Parcel Map, the subdivider's engineer shall submit to the County Surveyor:

(1) Prints of the Final Map sheets or the Parcel Map sheets;

(2) A preliminary title report;

(3) Traverse sheets, showing the mathematical closure of the exterior boundaries around the subdivision, of each lot boundary in the subdivision, and of boundaries of easements and of dedicated rights-of-way;

(4) The Preliminary Soil Report, unless it has been waived; and

(5) If the subdivision is subject to City Planning Code Section 313.5, certification from the Director of City Planning or his or her designee that the subdivider has complied with the requirements of City Planning Code Section 313.5(e)

and the guidelines adopted by the Director of City Planning. (Amended by Ord. 105-90, App. 3/23/90; Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1361. MAP CHECK.

(a) The County Surveyor shall check the prints of the Final Map or the Parcel Map to determine if it substantially conforms to the approved Tentative Map, this Code and SMA.

(b) If the prints do not substantially conform to the approved Tentative Map, the County Surveyor shall refer a set of said prints to City Planning for its review and recommendation.

(c) The County Surveyor shall send copies of the Preliminary Soil Report to BBI for evaluation.

(d) Within 14 days after submittal of 28 days if referral to City Planning is required under Subsection (b) of this Section, the County Surveyor shall return a set of the submitted prints, noting therein any required corrections, to the subdivider's engineer. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1362. FILING.

(a) After the check prints have been approved by the County Surveyor, the subdivider shall file with the County Surveyor:

(1) The Final Map or Parcel Map, corrected to its final form, together with the copies specified in the Subdivision Regulations;

(2) The bonds that may be required;

(3) When applicable, deeds conveying all streets in the subdivision to the City and deeds granting easements for sewers, drains and pedestrian walkways which are not dedicated on the Map;

(4) Evidence of title;

(5) The recording fee and evidence that all fees required by this Code have been paid; and

(6) The corrected Preliminary Soil Report, when required. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1363. SUBMITTAL TO BOARD.

(a) After obtaining the required certificates on the Final Map, or on the Parcel Map when dedications are included therein, the County Surveyor shall submit said Map and the other documents to the City Engineer and Director.

(b) After determining that all requirements of SMA and this Code have been met, the City Engineer and Director shall endorse the map and file the same, together with the other documents, with the Clerk. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

SEC. 1364. RECORDATION.

(a) After approval of a Final Map or Parcel Map by the Board, the Clerk shall file said map with the Recorder.

(b) After signing a Parcel Map, when no dedications are included therein, the County Surveyor City Engineer shall file said map with the Recorder.

(c) No Final Map or Parcel Map for a subdivision governed by this Code shall be recorded unless said Map has been approved by the County Surveyor or by the Board as required herein. (Amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

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ARTICLE 8: BONDS

Sec. 1370. Improvement Bonds.
Sec. 1371. Monument Bonds.
Sec. 1372. Payment of Taxes and Liens.

SEC. 1370. IMPROVEMENT BONDS.

(a) As a guarantee of good faith to furnish, install and construct the required improvements, the subdivider shall furnish a corporate surety bond or other acceptable security deposit for an amount not less than 50 percent of the estimated cost of said improvements.

(b) As a guarantee of payment for the labor, materials, equipment and services required to furnish, install and construct said improvements, the subdivider shall furnish a corporate surety bond or other acceptable security deposit for an amount not less than 50 percent of the estimated cost of said improvements.

SEC. 1371. MONUMENT BONDS.

As a guarantee of good faith to furnish and install the required survey monuments and to pay the subdivider's engineer or surveyor for said work, the subdivider shall furnish a corporate surety bond or other acceptable security deposit for an amount equal to 100 percent of the estimated cost of such work. Such work shall consist of satisfactorily furnishing and installing the said survey monuments and of accurately fixing exact survey points thereon.

SEC. 1372. PAYMENT OF TAXES AND LIENS.

Prior to recordation of a Final Map or Parcel Map, the subdivider shall comply with all applicable provisions governing taxes and assessments as set forth in Sections 66492, 66493 and 66494 of the SMA and any amendments thereto. (Added by Ord. 427-85, App. 9/12/85)

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ARTICLE 9: CONVERSIONS

Sec. 1380.	General.
Sec. 1381.	Additions to Application Packet.
Sec. 1382.	Exceptions from Application Packet.
Sec. 1383.	Conformity of Housing, Building and Planning Codes.
Sec. 1385.	Preservation of Low and Moderate Income Housing.
Sec. 1385A.	Suspension of Provisions of Section 1385.
Sec. 1386.	Denial of Tentative Map.
Sec. 1387.	Right of Tenants to Contract for the Purchase of Unit.
Sec. 1388.	Tenant Intent to Purchase.
Sec. 1389.	Temporary Relocation of Tenants.
Sec. 1390.	Rent Increase Limitation.
Sec. 1391.	Vacation of Units: Statutory Notice of Eviction Required; Extension of Leases for Elderly Tenants.
Sec. 1392.	Subdivider to Provide Moving Expenses.
Sec. 1393.	Subdivider to Provide Relocation Assistance.
Sec. 1394.	Time Limits for Reapplication.
Sec. 1395.	Time Limits for Sale.
Sec. 1396.	Annual Conversion Limitation.
Sec. 1396.1.	Annual Conversion Limitation Lottery Procedures.
Sec. 1396.2.	Prohibition on Condominium Conversions for Certain Buildings.
Sec. 1396.3.	Annual Conversion Limitation Lottery Procedures Based on Seniority of Participation.
Sec. 1396A.	Low and Moderate Income Housing Review.
Sec. 1397.	Certification of Exempt Conversions.

SEC. 1380. GENERAL.

The Sections of this Article 9 modify the applicable provisions of Article 3 through 8, inclusive, of this Code in the case of Conversions.

SEC. 1381. ADDITIONS TO APPLICATION PACKET.

(a) Application Packets for Conversions shall contain the following information in addition to that required by previous provisions of this Code:

(1) A building history detailing the date of construction, major uses since construction, major repairs since construction, current ownership of buildings and underlying land, and the proposed ownership upon conversion;

(2) A report of residential record ("3-R Report"), obtained from the Bureau of Building Inspection;

(3) A rental history detailing for each unit the size in square feet, the number of bedrooms, the current or last rental rate, the monthly rental rate for the preceding five years, the monthly vacancy over the preceding three years, and the names of the current tenant or tenants for each unit, including the names of all tenants aged 62 or older or permanently disabled who have resided in the building over the past three years to the extent that such information is known or can be made known to the subdivider;

(4) A building condition and sales program report including:

(A) A building inspector's report made by either the Bureau of Building Inspection or a certified engineer or architect acceptable to the Bureau of Building Inspection; with said report to contain any Housing Code violations and incipient or potential deficiencies including electrical, plumbing and boiler and energy conservation requirements; where a building to be converted to condominiums is two years old or less,

a Certificate of Completion issued by the Bureau of Building Inspection may be accepted in lieu of a building inspector's report;

(B) A statement of repairs and improvements and projected cost of same the subdivider plans to make before conveyance of the units by the subdivider;

(C) A list of the proposed sales prices for each unit including an indication as to whether the unit will be sold in fee simple or a leasehold interest, the estimated condominium association dues, the rentals if a leasehold interest is proposed, and a statement of the proposed sales program, particularly plans to promote affirmative action in housing; this information to be used to assure compliance with the requirements of this Code and SMA. The sales prices listed for each unit shall remain in effect and shall not be increased by the subdivider until the unit is sold to the tenant or until the tenant has waived his or her right of first refusal and the unit is made available to the general public, provided that the sales price may be increased by the following amounts: (1) The percentage increase in the Housing Component of the "Bay Area Consumer Price Index, U.S. Dept. of Labor," above the price index in existence as of the date the application is filed; and (2) the pro rata actual cost of any repairs or improvements made by the applicant in addition to those set forth in the application, pursuant to Section 1381(a)(4)(B). During this period of time, any reduction in price of any one unit from the price level indicated on the statement shall not be made without comparable reductions to the prices of all other units;

(D) A summary of tenant contacts including all meetings held with tenants and all information provided to them about the project and their own options; a list of all tenants who have expressed a desire to buy their own units; proposed methods of dealing with those tenants who do not plan to buy, especially those aged 62 or older, the permanently disabled and families with children; and any proposed program for relocation services;

(5) The survey information obtained pursuant to Section 1388 of this Code and as further required in the Subdivision Regulations;

(6) Notice to tenants:

(A) Within five days of filing an application with the Department of Public Works for condominium conversion subdivision, the subdivider shall give written notice concerning the proposed conversion to all lessees and tenants. If five or more units are involved, said notice shall advise all lessees and tenants that a public hearing concerning the application for conversion will be held and that notice of said hearing will be given to all lessees and tenants by the City Planning Commission. Said notice shall contain all the information as required in Subsections 4 and 8 of this Section. Said notice shall contain a description of the rights of tenants as herein provided, including the right of first refusal to purchase the unit, the right to attend and be heard at the public hearing, the right to receive relocation assistance and benefits, the right of all tenants to extend occupancy for a period of from one to three years depending upon length of prior occupancy, the right of elderly and disabled tenants to a lifetime lease, and the prohibition against rent increases during the process of conversion;

(B) Notice of the proposed conversion must be given to all persons or parties who lease or reside in any units which are proposed for conversion subsequent to approval of the application for conversion;

(C) The application packet for conversion shall include a statement that such notice has been given, and will continue to be given to any lessees or tenants subsequent to the submission of the application packet for conversion;

(7) A copy of the purchase agreement to be used for the project;

(8) Copies of all management documents submitted to the California State Department of Real Estate.

(b) When neither new buildings nor major additions to existing facilities are indicated in the Tentative Map, a Statement of Known Soil and Geologic Conditions may be substituted for the required Soil and Geologic Reconnaissance Report. Said Statement shall be prepared by the

engineer or surveyor who prepares the Tentative Map and shall contain the following information as taken from the latest U.S. Geologic Maps:

(1) Soil deposits;

(2) Rock formations;

(3) Faults;

(4) Groundwater; and

(5) Landslides. (Amended by Ord. 72-82, App. 2/19/82)

SEC. 1382. EXCEPTIONS FROM APPLICATION PACKET.

(a) Application Packets for Conversions shall have deleted the following information required by provisions of this Code:

(1) Except as otherwise required by other Sections of this Article 9, the statements required by Sections 1323(a), paragraphs 1, 2, and 3 shall be deleted.

(2) Except in the case of a vesting tentative map, the environmental evaluation data required by Section 1323(b) shall be deleted. (Amended by Ord. 576-85, App. 12/27/85)

SEC. 1383. CONFORMITY OF HOUSING, BUILDING AND PLANNING CODES.

As a condition of Final Map approval, the subdivider must demonstrate that all applicable provisions of the City's Housing, Building and City Planning Codes have been met and that all violations of such codes have been satisfactorily corrected or, upon the approval of the Director, and prior to recordation of the Final Map or Parcel Map, funds have been adequately escrowed or bonded to assure completion of such corrective work prior to the closing of escrow of any unit in the project.

SEC. 1385. PRESERVATION OF LOW AND MODERATE INCOME HOUSING.

The Department of City Planning shall determine whether any units to be converted are part of the City's low and moderate income housing stocks. If the Department of City Planning determines that any unit to be converted is part of the City's low or moderate income housing stocks, then the price of the unit upon conversion shall not be such as to remove it effectively from said low or moderate income housing stocks and shall be no greater than 2.5 times the highest income level for low and moderate income households as defined in Section 1309(e) and (f), and as adjusted for household size according to the size of the dwelling, as set forth in Sections 1309(l) and (m). The resulting sales prices established pursuant to this formula may be increased consistent with any increases in the housing component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," during the period between the most recent establishment of the above highest income levels and the date of commencement of sales. If the tenant does not exercise the contract right to purchase the unit which has been determined to be part of the low or moderate income housing stock, then the unit shall be made available exclusively for purchase by qualified households of low or moderate income on first-come, first-served basis for a period of not less than 12 months from the date of the decision by the tenant not to exercise the contract right to purchase or, if there is no tenant, from the date of issuance of the State Department of Real Estate Final Subdivision Public Report, at a price no greater than that allowed under the low and moderate income price guidelines set forth above. Priority, however, shall be given to low or moderate income households who can demonstrate that they had previously relocated from a dwelling in a building which has been approved for condominium conversion. The alternatives for low and moderate income occupancy set forth in Section 1341 shall not apply, except for those additional number of units which may be required pursuant to Section 1341(a) to be made available for rental or for purchase by households of low or moderate income. In cases where no low or moderate income household has purchased or contracted to purchase such unit within this 12-month period, after good-faith efforts by the subdivider, the subdivider may offer the unit to the general public with no price limitation. (Amended by Ord. 45-82, App. 2/11/82; Ord. 257-88, App. 6/22/88)

SEC. 1385A. SUSPENSION OF PROVISIONS OF SECTION 1385.

(1) The provisions of Section 1385 shall not apply to applications for initial conversion of residential units filed on or after June 1, 1988. For purposes of this Section initial conversion shall mean the first time the parcel containing the subject units is converted to condominiums.

(2) The suspension of Section 1385 shall continue so long as the 200 unit annual conversion limit set forth in Section 1396 remains in effect. (Added by Ord. 257-88, App. 6/22/88)

SEC. 1386. DENIAL OF TENTATIVE MAP.

When the City Planning Commission determines that vacancies in the project have been increased, or elderly or permanently disabled tenants displaced or discriminated against in leasing units, or evictions have occurred for the purpose of preparing the building for conversion, or if rents in the project over the previous 18 months preceding the date of filing the application have been increased substantially greater than any increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," (except for increases reasonably related to construction of Code-required capital improvements directly related to Code enforcement, or to recoup the costs thereof), or when the City Planning Commission determines that the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code), the Tentative Map shall be disapproved and the subdivider may not reapply for 18 months from the date of denial. In evaluation of the current vacancy level under this Section, the increase in rental rates for each unit over the preceding five years and the average monthly vacancy rate for the project over the preceding three years shall be considered. In the evaluation of displacement of elderly tenants any such displacements over the preceding three years, and the reasons therefor, shall be considered. (Amended by Ord. 86-81, App. 2/20/81)

SEC. 1387. RIGHT OF TENANTS TO CONTRACT FOR THE PURCHASE OF UNIT.

(a) The present tenant or tenants at the date of filing of the application for a Tentative Map of any unit to be converted or, in the event of a voluntary vacation, or eviction for cause, the tenant or tenants in occupancy at the date of issuance of the State Department of Real Estate's Final Subdivision Public Report shall be given a nontransferable contract right to purchase the unit occupied at a price no greater than the price offered to the general public.

(b) The right of contract for purchase of the unit shall extend for 60 days from the date the unit is initially offered to the tenant in writing by the subdivider. The period of acceptance of the offer may be extended if such an agreement is executed in writing by the subdivider and tenant, provided that the tenant may cancel the purchase agreement if the unit is not conveyed to that tenant within six months of the agreement to purchase.

(c) The offer of sale may not be extended by the subdivider to the tenant until the recordation of the Final Map or Parcel Map, and until the issuance of the State Department of Real Estate's Final Subdivision Public Report.

SEC. 1388. TENANT INTENT TO PURCHASE.

No application for conversion shall be approved unless there are substantial numbers of tenants who have indicated their intent to purchase their rental unit. This intent shall be evidenced by the submittal in writing by no less than 40 percent of the tenants of intent to purchase forms, as provided by the Department of Public Works. In obtaining or soliciting intent to purchase forms from tenants, subdividers shall comply with any restrictions set forth in the California Business and Professions Code and Regulations of the Real Estate Commissioner. In calculating the total number of units necessary to satisfy this provision, there shall be included in the 40 percent requirement any units in which

the occupant qualified for and has expressed an intent to obtain a renewable lifetime lease pursuant to Section 1391(c).

Any tenant intent to purchase forms obtained by way of an inducement of the subdivider to provide benefits to that tenant beyond those established by the Code shall be so identified and the specific representations of the subdivider shall be set forth in detail. All such intent to purchase forms shall become a matter of public record and the subdivider shall be required to comply with his or her representations as conditions of approval.

The intent to purchase forms, once signed by a tenant, shall be irrevocable by said tenant, for purposes of compliance with this Section, provided, however, that the Director shall invalidate any such form upon a determination that the subdivider has used coercion, fraud, duress, misrepresentation or threat in connection with obtaining or soliciting such form. (Amended by Ord. 161-01, File No. 010891, App. 7/9/2001; Ord. 281-04, File No. 041353, App. 12/1/2004)

SEC. 1389. TEMPORARY RELOCATION OF TENANTS.

If temporary relocation of any tenant is necessary for renovation of a unit between the date of submission of the Tentative Map and the date established for permanent relocation, then the subdivider shall find equivalent substitute housing for that tenant for the period of renovation, and shall pay to that tenant any additional cost of the substitute housing. Any tenant temporarily relocated shall have the right to return to his or her former unit until the expiration of all rights granted to such tenant as provided in this Code.

SEC. 1390. RENT INCREASE LIMITATION.

The rent to tenants at the time of filing the application for conversion shall not be increased for the period between the filing of the application until relocation takes place or until the subdivision is denied or withdrawn, except that such period shall not exceed two years. At the end of such period, and for one-year period thereafter, any increase in rent shall not exceed the proportionate increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," over that period of time, provided, that the rental increase provisions of this section shall be operative only in the absence of other rent increase or arbitration laws. In cases of hardship due to unusual circumstances to the subdivider, or in cases where a rent increase authorized herein is considered by the tenant to be not consistent with increases in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," either a subdivider or a tenant may request relief under this Section from the Director of Public Works or his or her designee. In considering the reasonableness of a rent increase, the Director shall consider the current rent paid for comparable units in comparable areas.

SEC. 1391. VACATION OF UNITS: STATUTORY NOTICE OF EVICTION REQUIRED; EXTENSION OF LEASES FOR ELDERLY TENANTS.

(a) Except for tenants availing themselves of the lease option set forth below, each nonpurchasing tenant shall be given 120 days from the date of receipt of notification from the subdivider of the intent to convert (as required in California Government Code Section 60427.1) to find substitute housing and to relocate. The subdivider shall not transmit such notice, however, prior to recordation of the Final Map or Parcel Map. If any tenant has a lease to occupy a unit in which the term of said lease extends longer than the 120-day period provided herein, such tenant shall not be evicted except for cause until the expiration of such lease.

Each nonpurchasing tenant shall be given the option of entering into or renewing a lease agreement to occupy said tenant's dwelling unit for period of up to one year following the date of approval of the Final Map; the rental charge and rights and obligations of the parties during said period shall be in accordance with Subsection (c) of this Section.

(b) Upon expiration of all such time requirements and upon satisfaction of any conditions required for conformity with the Master Plan, including the recordation of the Final Map or Parcel Map, the tenant shall also be entitled to the statutory period for notice of eviction as provided in California Civil Code Section 1946.

This provision shall not affect the requirement that a tenant receive relocation services and reimbursements for moving expenses provided that the tenant request and be eligible for said services as provided in Section 1392 and Section 1393, and provided that the time for relocation assistance not extend beyond the 120-day period of the notice of intent to convert or any lease extension as required in Subsection (a) of this Section.

(c) No subdivider or subsequent condominium unit owner shall refuse to renew a lease or extend a rental agreement to any nonpurchasing tenant aged 62 or older at the time of recordation; of the Final Map or Parcel Map, or any tenant permanently disabled. Any extended leases or rental agreements made pursuant hereto shall expire only upon the death or demise of such tenant or the last surviving member of the tenant's household, provided such surviving member is related to the tenant by blood or marriage and is aged 62 or older at the time of death or demise of such tenant, or at such time as the tenant voluntarily vacates the unit after giving due notice of such intent to vacate. Each lease shall contain a provision allowing the tenant to terminate the lease and vacate the unit upon 30 days' notice. Rent charged during the term of any extended lease or rental agreement pursuant to the provisions of this Section shall not exceed the rent charged at the time of filing of the application for conversion, plus any increases proportionate to the increases in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," provided that the rental increase provisions of this Section shall be operative only in the absence of other applicable rent increase or arbitration laws. This Section shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including but not limited to the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code. There shall be no decrease in dwelling unit maintenance or other services historically provided to such units and such tenants.

SEC. 1392. SUBDIVIDER TO PROVIDE MOVING EXPENSES.

(a) The subdivider shall bear the cost of moving expenses of any tenant who relocates from the building to be converted. The tenant, at his or her option, shall be reimbursed either for the actual moving expenses up to a maximum of $1,000, or for the fixed amount allowed by the moving expense schedule of the Central Relocation Services agency. In the event the unit is occupied by a subtenant under an agreement with the tenant, the moving expense reimbursement herein provided shall be shared proportionately by both parties in relation to the actual costs of moving the property of each party.

(b) Availability for such assistance shall be limited to the 120-day period or the period of any lease extension as provided in Section 1391(a) unless a contrary agreement is reached by the subdivider and tenant; provided that tenants aged 62 years or older, or permanently disabled whose tenancy is extended pursuant to Section 1391(c), would be eligible for such assistance at such time that such tenant elects to voluntarily vacate the unit and gives due notice therefor.

(c) Those parties who lease a unit subsequent to the date of filing the application for conversion shall not be eligible to receive assistance provided in this Section unless such an agreement is made between the subdivider and prospective tenant.

SEC. 1393. SUBDIVIDER TO PROVIDE RELOCATION ASSISTANCE.

(a) Any tenant who requests assistance in finding relocation housing shall be referred to the Central Relocations Services Agency of the City and County of San Francisco, or, with the mutual consent of the tenant and subdivider, such assistance may be provided by the subdivider or a real estate brokerage firm selected by

the subdivider. The subdivider shall bear any costs to the tenant of such assistance in finding relocation housing.

(b) Availability for such assistance shall be limited to the expiration of the 120-day period or the period of any lease as provided in Section 1391(a) and (c), unless a contrary agreement is reached by the subdivider and tenant.

(c) Those parties who lease a unit subsequent to the date of filing the application for conversion shall not be eligible to receive assistance provided in this Section unless such an agreement is made between the subdivider and prospective tenant.

SEC. 1394. TIME LIMITS FOR REAPPLICATION.

(a) In the event an application for condominium conversion subdivision is withdrawn by the applicant, said application may not be resubmitted for six months from the date of withdrawal.

(b) In the event an application for condominium conversion subdivision is denied, or a Tentative Map is disapproved, the applicant therefor may not submit a new application for the same building for one year from the date of such denial, except that this period may be extended pursuant to the provisions of Section 1386.

SEC. 1395. TIME LIMITS FOR SALE.

All units approved for conversion shall be offered for sale to the tenants within one year of the issuance of the State Department of Real Estate's Final Subdivision Public Report.

SEC. 1396. ANNUAL CONVERSION LIMITATION.

This Section governing annual limitation shall apply only to conversation of residential units.

Applications for conversion of residential units, whether vacant or occupied, shall not be accepted by the Department of Public Works during the period of January 1, 1994 through December 31, 2008, inclusive, except that a maximum of 200 units as selected yearly by lottery by the Department of Public Works from all eligible applicants, may be approved for conversion per year during the aforementioned period for the following categories of buildings:

(a) Buildings consisting of four units or less in which one of the units has been occupied continuously by one of the applicant owners of record for three years prior to the date of registration for the lottery as selected by the Director.

(b) Buildings consisting of six units or less in which 50 percent or more of the units have been occupied continuously by the applicant owners of record for three years prior to the date of registration for the lottery as selected by the Director; or

(c) Community apartments as defined in Section 1308 of this Code, which, on or before December 31, 1982, met the criteria for community apartments in Section 1308 of this Code and which were approved as a subdivision by the Department of Public Works on or before December 31, 1982, and where 75 percent of the units have been occupied continuously by the applicant owners of record for three years prior to the date of registration for the lottery as selected by the Director.

The conversion of a stock cooperative as defined in Section 1308 of this Code to condominiums shall be exempt from the annual limitation imposed on the number of conversions in this Section and from the requirement to be selected by lottery where 75 percent of the units have been occupied for the lottery as selected by the Director.

No application for conversion of a residential building submitted by a registrant shall be approved by the Department of Public Works to fill the unused portion of the 200-unit annual limitation for the previous year. (Amended by Ord. 498-85, App. 11/15/85; Ord. 426-89, App. 11/22/89; Ord. 418-93, App. 12/23/93; Ord. 434-97, App. 11/25/97; Ord. 372-98, App. 12/18/98; Ord. 161-01, File No. 010891, App. 7/9/2001; Ord. 48-03, File No. 030099, App. 4/3/2003; Ord. 281-04, File No. 041353, App. 12/1/2004; Ord. 6-07, File No. 061519, App. 1/18/2007)

SEC. 1396.1. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES.

This Section shall govern conduct of the lottery required by Section 1396 for the conversion of residential units.

(a) The lottery shall be comprised of two pools (Pool A and Pool B).

(b) **Pool A.**

(1) For the 1995 lottery, Pool A shall consist only of those eligible buildings which participated but which failed to be selected in any previous lottery held during the years 1990 through 1994. For the 1996 lottery, Pool A shall consist of only those eligible buildings which participated but failed to be selected in any lottery held during the years 1990 through 1994 and the 1995 lottery. For all subsequent lotteries after 1996, Pool A shall consist of only those eligible buildings which participated but which have failed to be selected for conversion in at least three previous lotteries, two of which must be lotteries held after 1994. If all buildings eligible in Pool A comprise 100 or fewer units, all such buildings shall automatically be approved for conversion. Any unallocated units in Pool A shall be added to Pool B.

(2) If all buildings eligible in Pool A comprise more than 100 units, the Director of the Department of Public Works (Director) shall conduct a lottery among the buildings eligible for Pool A so that no more than 100 units are selected for conversion in Pool A. All buildings not selected for conversion through the Pool A lottery shall then participate in Pool B, under the procedures set forth below.

(c) **Pool B.**

(1) Pool B shall consist of all eligible buildings pursuant to Section 1396 above, together with any buildings from Pool A that were not selected for conversion in the Pool A lottery.

(2) Buildings from Pool B shall be selected for conversion by random selection of lottery tickets submitted for eligible buildings.

(3) Each building in Pool B shall receive one lottery ticket for the current lottery, plus a maximum of one lottery ticket for any and all lotteries held during the years 1990 through 1994 in which the building participated but failed to be selected for conversion in the lottery, plus one lottery ticket for every lottery after 1994 in which the building participated but failed to be selected for conversion.

(4) No building in Pool B shall receive more than five tickets.

(d) Applicants shall provide proof of participation in past lotteries to the Director.

(1) Proof of participation in any lottery held during the years 1990 through 1994 shall be as follows:

(i) Presentation by the registrant of a letter of regret from the Director for any lottery held during the years 1990 through 1994; or

(ii) Presentation by the registrant of a cancelled check for payment of lottery registration fees from any lottery held during the years 1990 through 1994; or

(iii) Any other proof of participation in any lottery held during the years 1990 through 1994, as determined acceptable by the Director.

(2) Proof of participation in any lottery held in or after 1995 shall be determined upon presentation by the registrant of a letter of regret from the Director.

(e) Commencing with the 1997 lottery, any building seeking more than one lottery ticket shall demonstrate to the satisfaction of the Director that one or more of the qualified owners of the building were owners of the building at the time of the lotteries in which the building participated but failed to be selected for conversion.

(f) For purposes of determining whether a building failed to be selected for conversion in a previous lottery:

(1) Those buildings which were chosen in a previous lottery but were not converted for any reason whatsoever shall not be considered as having failed to be selected in that lottery.

(2) Any previous failures to be selected by lottery do not have to occur in consecutive years.

(3) No credit shall be given for any year in which the building did not participate in the lottery.

(g) In addition to the other provisions relating to Pool A and Pool B described in subsections (b) through (f) above:

(1) the first 175 units selected by lottery in Pools A and B must meet the following requirements: the Applicant for the lottery must certify under penalty of perjury and the Department must verify with the Rent Stabilization and Arbitration Board, and with the Human Rights Commission as applicable, that since November 16, 2004, no eviction as defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is 60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician.

(2) If there are not 175 units that meet the requirements of subsection (g)(1) above, then the remaining units will not be awarded by lottery in that year's lottery or any future lottery. If there are more than 175 units that meet the requirements of subsection (g)(1) above, then those units may compete for the remaining 25 units as described in subsection (g)(3) below.

(3) The remaining 25 units in Pool A and Pool B will be selected as described in subsections (b) through (f) and may, but do not need to, meet the additional requirements of subsection (g)(1) above.

(4) If the Department determines that an Applicant has knowingly provided false material information under subsection (g)(1) above, the Department shall immediately deny the application for the lottery, or if the Applicant has submitted an application for conversion, shall immediately deny the application for conversion. Moreover, the Department, the Director or other authorized person or entity may also enforce the provisions of this Section under Section 1304 or any other applicable provision of law as warranted.

(h) **Standby List.**

(1) Once all units have been allocated in Pools A and B, the Department shall place the remaining buildings on a standby list as set forth in Subsection (2). Buildings on the standby list may convert if selected units in Pools A and B are unable to convert within the time limits that the Department establishes and as long as the maximum number of allocated units is not exceeded.

(2) The Department shall determine the standby list by random selection in a lottery; provided, however, that only buildings satisfying the requirements of subsection (g)(1) shall participate in the lottery authorized under this Subsection. The standby list lottery shall terminate after the Department selects the first 20 buildings.

(3) All remaining buildings shall be kept on file with the Department. These buildings are eligible to convert if selected units in Pools A and B and the standby list lottery are unable to convert within the time limits that the Department establishes and as long as the maximum number of allocated units is not exceeded. In such an event, the Department shall conduct a random selection lottery among the remaining buildings for any unallocated units. (Added by Ord. 428-94, App. 12/23/94; amended by Ord. 161-01, File No. 010891, App. 7/9/2001; Ord. 281-04, File No. 041353, App. 12/1/2004; Ord. 281-05, File No. 051462, App. 12/21/2005; Ord. 6-07, File No. 061519, App. 1-18-2007)

SEC. 1396.2. PROHIBITION ON CONDOMINIUM CONVERSIONS FOR CERTAIN BUILDINGS.

(a) Notwithstanding any provisions in this Code to the contrary, including Section 1359, the Department of Public Works shall not sell residential condominium conversion lottery tickets

to; shall not accept a residential condominium conversion subdivision application from; and shall deny a tentative subdivision or tentative parcel map for residential condominium conversion submitted by the owner(s) of a building that meets all of the following conditions:

(1) the building had two or more evictions with each eviction associated with a separate unit(s);

(2) issuance of each eviction notice occurred on or after May 1, 2005; and,

(3) issuance of the eviction notice(s) occurred pursuant to San Francisco Administrative Code Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13).

(b) Subsection (a) also shall apply to the owner(s) of a building with one or more evictions if the person(s) evicted was a senior, disabled, or catastrophically ill tenant and the issuance of the eviction notice occurred in accordance with the conditions of Subsections (a)(2) and (3).

(1) For purposes of this Subsection, a "senior" shall be a person who is 60 years or older and has been residing in the unit for ten years or more at the time of issuance of the eviction notice; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician.

(c) Subsections (a) and (b) shall apply to all buildings subject to such provisions without regard to whether the current owner(s) initiated or otherwise participated in the eviction(s).

(d) If the Department determines that an applicant has knowingly provided false material information concerning subsections (a) or (b) above, the Department shall immediately deny the application for the lottery, or if the applicant has submitted an application for conversion, shall immediately deny the application for conversion. Moreover, the Department, the Director, or other authorized person or entity may also enforce the provisions of this Section under section 1304 or any other applicable provision of law as warranted.

(e) For purposes of subsections (a) and (b), "eviction" shall mean the issuance of a written notice terminating tenancy pursuant to Administrative Code Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13); provided, however, that if the property owner(s) issues then withdraws the eviction notice prior to its expiration and the tenant receiving the notice remains in tenancy for at least 120 days following the expiration of the notice, the property owner's action shall not be deemed an eviction pursuant to this subsection.

(f) Notwithstanding the limitations set forth in Subsection (a), a building that meets the conditions of Subsections (a)(1)—(3) but did not result in the issuance of an eviction notice, as defined, to a senior, disabled, or catastrophically ill tenant shall be eligible for conversion ten (10) years following the date of the last eviction from the building. Conversion of a 2-unit building pursuant to this Section shall be subject to Section 1359 except that both units in the building shall be owner-occupied by the same owners of record for ten (10) years prior to the date of application for Conversion. Conversion of a building of up to six (6) units pursuant to this section shall be subject to the provisions of Article 9 except that the owner occupancy requirements of Sections 1396(a) and (b) shall be ten (10) years prior to the date of registration for the lottery as selected by the Director.

(g) Notwithstanding the limitations set forth in Subsection (a) or (b), a building where one or more eviction notices, as defined, were issued after May 1, 2005, shall be exempt from this Section 1396.2 if each unit in the building was occupied by a separate owner of record on April 4, 2006, the introduction date of this legislation. (Ord. 112-06, File No. 060443, App. 5/22/2006)

SEC. 1396.3. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES BASED ON SENIORITY OF PARTICIPATION.

This Section shall govern conduct of the lottery required by Section 1396 and shall prevail over the lottery selection process of Section 1396.1 for the conversion of residential units.

(a) The lottery shall be comprised of two pools (Pool A and Pool B).

(b) **Pool A.**

(1) Pool A shall consist of only those eligible buildings which participated but which have failed to be selected for conversion in at least three previous lotteries. In addition, Pool A eligibility requires that each applicant for the lottery certify under penalty of perjury, and the Department must verify with the Rent Stabilization and Arbitration Board, and with the Human Rights Commission as applicable, that since January 1, 2000, no eviction as defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is 60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician. If an applicant for Pool A cannot satisfy this certification requirement, the applicant shall participate in Pool B as set forth in Subsections (c)—(g). This certification also is subject to the procedures of Subsection (g)(4). If all buildings eligible in Pool A comprise 100 or fewer units, all such buildings shall automatically be approved for conversion. Any unallocated units in Pool A shall be added to Pool B.

(2) If all buildings eligible in Pool A comprise more than 100 units, the Director of the Department of Public Works (Director) rank the buildings according to the number of times a building has participated in and failed to be selected in any lottery, to be known as a Class. The Director shall enter the buildings having participated the most times into the Senior Class. If the total number of units in the Senior Class exceeds 100 units, then the Director shall conduct a lottery among all the buildings eligible for the Senior Class so that no more than 100 units are selected for conversion in Pool A. If the total number of units in the Senior Class is fewer than 100 units, all buildings shall automatically be approved for conversion. If there are remaining units to be selected to reach the maximum total of 100 units in Pool A, the process will then proceed to the next most senior Class. If the next most senior Class would result in more than 100 total units being selected in Pool A, then the Director shall conduct a lottery among all the buildings eligible for the next most senior Class so that no more than 100 total units are selected for conversion in Pool A. If the number of units in next most senior Class(es) combined with the units previously selected in Pool A is fewer than 100 total units, all buildings in the next most senior Class shall automatically be approved for conversion. If there are remaining units to be selected to reach the maximum total of 100 units in Pool A, the process will then proceed as described above for the next most senior Class so that those buildings with the most seniority are prioritized over the junior Class(es). At such time as the number of units in the Class next eligible for conversion exceeds the total number of units remaining for selection in Pool A, a lottery will be held among that Class to determine which units shall be selected for conversion as part of Pool A. All buildings not selected for conversion through the Pool A lottery shall then participate in Pool B, under the procedures set forth below.

(c) **Pool B.**

(1) Pool B shall consist of all eligible buildings pursuant to Section 1396 above, together with any buildings from Pool A that were not selected for conversion in the Pool A lottery.

(2) Buildings from Pool B shall be selected for conversion by random selection of lottery tickets submitted for eligible buildings.

(3) Each building in Pool B shall receive one lottery ticket for the current lottery, plus one lottery ticket for every lottery in which the building participated but failed to be selected for conversion.

(d) Applicants shall provide proof of participation in past lotteries to the Director.

(1) Proof of participation in any lottery held during the years 1990 through 1994 shall be as follows:

(i) Presentation by the registrant of a letter of regret from the Director for any lottery held during the years 1990 through 1994; or

(ii) Presentation by the registrant of a cancelled check for payment of lottery registration fees from any lottery held during the years 1990 through 1994; or

(iii) Any other proof of participation in any lottery held during the years 1990 through 1994, as determined acceptable by the Director.

(2) Proof of participation in any lottery held in or after 1995 shall be determined upon presentation by the registrant of a letter of regret from the Director.

(e) Commencing with the 1997 lottery, any building seeking more than one lottery ticket shall demonstrate to the satisfaction of the Director that one or more of the qualified owners of the building were owners of the building at the time of the lotteries in which the building participated but failed to be selected for conversion.

(f) For purposes of determining whether a building failed to be selected for conversion in a previous lottery:

(1) Those buildings which were chosen in a previous lottery but were not converted for any reason whatsoever shall not be considered as having failed to be selected in that lottery.

(2) Any previous failures to be selected by lottery do not have to occur in consecutive years.

(3) No credit shall be given for any year in which the building did not participate in the lottery.

(g) In addition to the other provisions relating to Pool A and Pool B described in subsections (b) through (f) above:

(1) The first 175 units selected by lottery in Pools A and B must meet the following requirements: the Applicant for the lottery must certify under penalty of perjury and the Department must verify with the Rent Stabilization and Arbitration Board, and with the Human Rights Commission as applicable, that since November 16, 2004, no eviction as defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is 60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician.

(2) If there are not 175 units that meet the requirements of subsection (g)(1) above, then the remaining units will not be awarded by lottery in that year's lottery or any future lottery. If there are more than 175 units that meet the requirements of subsection (g)(1) above, then those units may compete for the remaining 25 units as described in subsection (g)(3) below.

(3) The remaining 25 units in Pool A and Pool B will be selected as described in subsections (b) through (f) and may, but do not need to, meet the additional requirements of subsection (g)(1) above.

(4) If the Department determines that an Applicant has knowingly provided false material information under subsection (g)(1) above, the Department shall immediately deny the application for the lottery, or if the Applicant has sub-

mitted an application for conversion, shall immediately deny the application for conversion. Moreover, the Department, the Director or other authorized person or entity may also enforce the provisions of this Section under Section 1304 or any other applicable provision of law as warranted.

(h) **Standby List.**

(1) Once all units have been allocated in Pools A and B, the remaining buildings shall be placed on a standby list as set forth in subsection (2). Buildings on the standby list may convert in the event that selected units in Pools A and B are unable to convert within the time limits that the Department establishes and as long as the maximum number of allocated units is not exceeded.

(2) The standby list shall be determined by a lottery or, if necessary, a series of lotteries among a Class(es) of buildings prioritized by seniority of participation in the annual condominium conversion lottery. Only buildings satisfying the requirements of subsection (g)(1) shall be assigned to the standby list in the manner specified above. The standby list lottery shall terminate after the Department selects the first 20 buildings.

(3) All remaining buildings shall be kept on file with the Department. These buildings are eligible to convert if selected units in Pools A and B and the standby list lottery are unable to convert within the time limits that the Department establishes and as long as the maximum number of allocated units is not exceeded. In such an event, the Department shall conduct a random selection lottery among the remaining buildings for any unallocated units.

(i) **Sunset Provision.** This Section 1396.3 shall remain in effect only until December 31, 2008; provided however, that the Board of Supervisors retains its full authority to extend, modify, or terminate this Section at any time. (Added by Ord. 13-07, File No. 061563, App. 2/2/2007)

SEC. 1396A. LOW AND MODERATE INCOME HOUSING REVIEW.

The availability of low and moderate income housing shall be reviewed every two years by the Department of City Planning and the results of this review shall be included in the Department of City Planning's "Residence Element Update" which is submitted to the Board of Supervisors. (Added by Ord. 257-88, App. 6/22/88)

SEC. 1397. CERTIFICATION OF EXEMPT CONVERSIONS.

(a) The conversion of a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, is exempt from the provisions of this Code, including, but not limited to, any annual limitation imposed on the number of conversions to condominiums set forth in Section 1396, upon issuance of a Certificate of Exemption pursuant to this Section, but only if the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph a cooperative unit is "individually owned" if and only if the stockholder of such unit owns or partially owns an interest in no more than one unit in the cooperative; and

(2) No more that 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(b) In addition to notice requirements hereafter provided, each tenant of a unit in a stock cooperative that is converting to condominiums shall have the nontransferable right (i) to contract for the purchase of the unit upon the same terms and conditions that such unit will be initially offered to the general public or on terms more favorable to the tenant, which right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Business and Professions Code Section 11018.2 where the building to be converted consists of five or more units, or from the date of issuance of a Certificate of Exemption in the case where the building to be converted consists of

four units or less; or (ii) to receive moving expenses, up to a maximum of $1,000, which right shall extend for 120 days from the date of issuance of a Certificate of Exemption; or (iii) to enter into a one-year lease of the unit; or (iv) as to tenants aged 62 years or older or permanently disabled, to enter into a lease under the terms and conditions set forth in Section 1391(c) of this Code.

(c) Applications for a Certificate of Exemption shall be filed with the Department of Public Works and shall contain the following information, based on a declaration under penalty of perjury executed by the applicant that the information provided is, to the best of the applicant's knowledge, correct:

(1) A copy of a report of residential record ("3-R Report") obtained from the Bureau of Building Inspection showing the type of building and the number of units;

(2) The name and mailing address of the occupant of each unit;

(3) Identification of any occupant who is a tenant; for purposes of this Section, a "tenant" is a person other than a shareholder of the stock cooperative who rents or leases a unit in a stock cooperative;

(4) Verification under penalty of perjury by each non-tenant occupant of a unit that he or she is one of the share owners of a stock cooperative, along with documentary proof of that status in a form acceptable to the Director.

(5) Information showing that the applicant meets the requirements for exemption under Section 66412(h)(1) and (2) of the SMA.

(6) Certification that the applicant has provided written notice to every tenant of (i) the applicant's intent to convert to condominiums; and (ii) the applicant's intent to seek the exemption provided herein; and (iii) the rights afforded tenants of stock cooperatives that convert to condominiums pursuant to this Section. The applicant shall also submit a copy of the notice provided to the tenants and the date that it was so provided.

(7) Certification that the applicant (i) will give, prior to issuance of the Certificate of Exemption, written notice to each person applying for rental of a unit in the building of the tenant rights described in Subsection (4), which notice shall be given prior to acceptance of any rent or deposit from the prospective tenant; and (ii) will give written notice to all tenants that an application for a public report has been submitted to the Department of Real Estate at least 10 days before its submission where the building to be converted consists of five or more units; and (iii) will not terminate any tenancy because of a conversion or proposed conversion without 180 days' written notice to the tenant. Failure to comply with Subsection (i) of this Section will make the applicant subject to payment to the tenant of moving expenses and rent as provided in Government Code Section 66452.8.

The applicant shall also provide stamped envelopes addressed to the occupant of every unit in the stock cooperative. Such stamped and self-addressed envelopes shall be furnished to the Department of Public Works at the time of the filing of the application for a Certificate of Exemption.

(d) The Director shall determine whether the applicant has met the requirements for exemption set forth in Section 66412(h)(1) and (2) of the SMA and whether a parcel or final map was approved by the Legislative Body of the City and County of San Francisco. If it is determined that these requirements are not met or that a parcel or final map was so approved, the Director shall deny the application.

(e) If the Director determines that an application meets all the requirements described in Subsection (c), that officer shall take the following action:

(i) If the applicant has certified that no tenants reside in any of the units, a notice shall be sent to each occupant of the building setting forth the rights of tenants of stock cooperatives that convert to condominiums and stating that the Department intends to issue the applicant a Certificate of Exemption for conversion to condominiums on the grounds that the applicant meets

the requirements of Section 66412(h) of the SMA and that no tenants are occupying any of the units in the building. It shall also state that the Certificate of Exemption will be issued within 30 days if no request is made for a hearing to dispute the validity of that action. Upon receipt of a written request, the Director or a designee shall conduct a hearing, after providing notice to the applicant and all occupants of the units, in order to determine whether the Certificate of Exemption should be issued and whether tenant rights have been provided as required herein. If no request for a hearing is made within 30 days of the mailing of such notice, the Director shall issue the Certificate of Exemption.

(ii) If the applicant has certified that one or more tenants occupy any unit in the building, the Director shall set a date by which the applicant must comply with the requirements of this Section governing tenant rights, which date shall be not less than 60 days from the date that the applicant notified the tenants of the intent to convert and of the rights afforded to such tenants, and shall provide written notice of that date to the applicant and each occupant of the building.

(f) On or after the date set by the Director for compliance by the applicant with the requirements regarding tenant rights, the applicant shall provide the Department of Public Works with respect to each tenant one of the following:

(i) A contract executed by every owner of the building and the tenant giving the tenant the right to purchase the unit on the terms set forth above in Subsection (b)(i); or

(ii) Written certification by the tenant that the tenant has received money for moving expenses or, in the alternative, a contract between the owner(s) of the building and the tenant in which the owner(s) agree to pay the tenant's moving expenses (which contract may contain a provision that the right to such expenses shall expire after 120 days from the date of issuance of the Certificate of Exemption); or

(iii) A lease executed between the owner(s) of the building and the tenant for either one year or, as to elderly or disabled tenants, on the terms set forth in Section 1391(c) of this Code; or

(iv) A statement by the applicant that the tenant has been offered each of the tenant rights set forth in this subsection, but has failed to exercise any of those rights.

In every contract and lease entered into pursuant to this Section, every owner of the building shall expressly waive the right to assert as a defense to any legal action brought by a tenant for violation of the contract or lease the claim that the contract is unenforceable because it was not based on consideration provided by the tenant.

(g) If the applicant has complied with the requirements of this Section governing tenant rights, the Director shall issue the Certificate of Exemption; provided, however, that if any tenant or occupant of the building disputes the validity of that action on the grounds that tenant rights have not been provided as required herein, the Director of a designee shall conduct a hearing, after providing notice to the applicant and the occupant of each unit, in order to determine whether all such rights have been provided. The Certificate of Exemption shall not be issued unless the Director makes the determination that such rights have been provided.

(h) All decisions of the director made pursuant to this Section are final administrative determinations.

(i) A subdivider, having applied for and been granted a Certificate of Exemption under this Section 1397 and Section 66412(h) of SMA may elect to file a parcel or final map for recordation, in which case such parcel or final map shall be filed with the Department of Public Works for the sole purpose of recordation. Unless the subdivider requests approval of such data by the County Surveyor, it shall bear a certificate on the title sheet of the map, signed by the County Surveyor, certifying that this map is filed under provisions of the Certificate of Exemption procedure for the sole purpose of recordation, and that approval of the technical and engineering data shown thereon is not implied. Such parcel or final map shall be signed by all parties having any record title interest in the real property subdivided. If the map is not signed by all of the

stockholders, the person or persons signing shall produce evidence satisfactory to the Director that they are authorized to sign on behalf of the stock cooperative.

(j) A fee of $500 shall be charged for investigating and processing an application for Certificate of Exemption for converting a stock cooperative consisting of four units or less to condominiums and all other costs incidental thereto.

A fee of $800 shall be charged for investigating and processing an application for Certificate of Exemption for converting a stock cooperative consisting of five units or more to condominiums and all other costs incidental thereto.

(k) A fee of $200 shall be charged for processing and filing a parcel or final map, excluding any recordation fee charged by the Office of the Recorder; provided, however, that if the subdivider requests approval of the technical and engineering data shown on a parcel or final map, the fee shall be the same as that charged for the processing and filing of a condominium map.

(l) Fees charged under Subsections (j) and (k) above shall be payable to the Department of Public Works and shall be paid at the time of filing the application for Certificate of Exemption, or at the time of filing the parcel or final map, whichever is applicable. Said fees shall be nonrefundable.

(m) Funds received under Subsections (j) and (k) above shall be deposited in the Subdivision Fund created by Section 1315(c) of this Code and shall be governed by the provisions specified therein.

(n) Section 1315(b) of this Code shall be applicable to the payment of fees under Section 1397 of said Code as well. (Added by Ord. 289-85, App. 6/13/85; amended by Ord. 284-04, File No. 041355, App. 12/14/2004)

ARTICLE 10: CONSISTENCY WITH STATE LAW

Sec. 1398. Subdivision Map Act Provisions.

SEC. 1398. SUBDIVISION MAP ACT PROVISIONS.

If any Section, Subsection, sentence or provision of this Code is ruled inconsistent with provisions of the Subdivision Map Act of the State of California as a result of passage of any Senate or Assembly bills amending said Act, such said Section, Subsection, sentence or provision shall be deemed to have been amended to comply with said Act, so as to bring the intent of this Code in conformance therewith. Notwithstanding the above, such said amendment or amendments shall not in any way invalidate or change any other portion of this Code. (Added by Ord. 86-81, App. 2/20/81)

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DIVISION 2: MISSION BAY SUBDIVISION CODE*

ARTICLE 1: GENERAL PROVISIONS

Sec. 1400. Title.
Sec. 1401. Authority and Mandate.
Sec. 1402. Purposes.
Sec. 1403. Scope.
Sec. 1404. Enforcement.
Sec. 1404.1 Certificate of Compliance.
Sec. 1405. Severability.

Editor's Note:

Refer to Division 1 of the San Francisco City and County Subdivision Code for provisions regulating subdivision of land in all areas other than Mission Bay of the City and County of San Francisco.

SEC. 1400. TITLE.

This Chapter shall be known as the "Subdivision Code of the City and County of San Francisco for the Mission Bay Project Area" (hereinafter referred to as this "Code") and applies only to the areas designated as the Mission Bay North Redevelopment Project Area and the Mission Bay South Redevelopment Project Area (collectively the "Mission Bay Project Area"). (Added by Ord. 329-98, App. 10/30/98)

SEC. 1401. AUTHORITY AND MANDATE.

(a) This Code is adopted pursuant to the Subdivision Map Act of California, Title 7, Division 2 of the Government Code, commencing with Section 66410 (hereinafter referred to as "SMA"), and repeals the Mission Bay Subdivision Code, adopted as Exhibit F to Ordinance No. 60-91, being the Mission Bay Development Agreement, to the extent, if any, not previously repealed by the termination of the Development Agreement, and repeals the Mission Bay Subdivision Regulations adopted by the Director on October 18, 1991, to the extent not previously repealed.

(b) Any amendments to SMA, adopted subsequent to the effective date of this Code, shall not invalidate any provisions of this Code. Any amendments to SMA that may be inconsistent with this Code shall govern.

(c) Subject to the procedures and requirements for development in the Mission Bay Project Area set forth in the Plans and Plan Documents, as defined in the Plans, this Code shall govern in relation to all other City regulations. Except as required by the SMA, in the event of any inconsistency or conflict between the provisions of this Code and the Plans or Plan Documents, the Plans and Plan Documents shall control. All applications for tentative Maps, Vesting Tentative Maps, Parcel Maps and Final Maps shall be consistent with the Plans and Plan Documents.

(d) This Code and the regulations adopted pursuant to this Code shall apply to all subdivisions hereafter made entirely or partially within the Mission Bay Project Area. This Code shall be effective until the termination of the Plan, including any modifications or extensions thereof. Upon termination all the subdivisions in the Mission Bay Project Area shall be governed by the San Francisco Subdivision Code and applicable regulations unless otherwise specified. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1402. PURPOSES.

(a) This Code is enacted to establish procedures and requirements for the control and approval of subdivision development within the Mission Bay Project Area of the City and County of San Francisco in accordance with SMA and the Plans and Plan Documents.

(b) This Code is enacted to accomplish the following purposes in accordance with the procedures and requirements for the control and approval of development of the Project Area as set forth in the Plans and Plan Documents:

(1) To provide policies, standards, requirements, and procedures to regulate and control the design and improvement of all subdivisions within the Mission Bay Project Area, and to

ensure that all subdivisions are built to City standards consistent with the Plans and Plan Documents;

(2) To assist in implementing the objectives, policies, and programs of the General Plan by ensuring that all proposed subdivisions, together with the provisions for their design and improvement, are consistent with the General Plan of the City;

(3) To preserve and protect, to the maximum extent possible, the unique and valuable natural resources and amenities of the City's environment, including topographic and geologic features, open space lands, waterfront recreational areas, fish and wildlife habitats, historical and cultural places, and scenic vistas and attractions; and, to maximize the public's access to and enjoyment of such resources and amenities through the dedication or continuance of applicable easements thereto;

(4) To relate land use intensity and population density to existing development, street capacity and traffic access, the slope of the natural terrain, and the availability of public facilities and utilities and open space;

(5) To provide lots of sufficient size and appropriate design for the purposes for which they are to be used;

(6) To provide streets of adequate capacity and design for anticipated uses and to ensure maximum safety for pedestrians and vehicles;

(7) To ensure adequate access to each building site;

(8) To provide sidewalks, and where needed, pedestrian ways, biking paths, and jogging trails for the safety, convenience, and enjoyment of the residents of new developments;

(9) To provide adequate systems of water supply, sanitary sewage disposal, storm drainage, street lighting, and other utilities needed for the public health, safety and convenience;

(10) To provide adequate sites for public facilities needed to serve the residents of new developments;

(11) To ensure adequate financing of the costs of providing land for streets, alleys, pedestrian ways, easements, and other rights-of-way and for the improvements therein needed to serve new developments;

(12) To ensure that land is subdivided in a manner that will promote the public health, safety, convenience, and general welfare in conformance with the General Plan. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1403. SCOPE.

(a) This Code supplements SMA, prescribing rules, regulations and procedures authorized therein.

(b) The necessity for Tentative Maps, Final Maps and Parcel Maps shall be governed by this Section and SMA.

(c) For subdivisions creating five or more parcels or units, a Tentative Map and a Final Map shall be required pursuant to this Code and SMA.

(1) A Tentative Map and a Final Map shall be required for all such subdivisions except those coming within the exceptions set forth in Section 66426 of SMA.

(2) A Tentative Map and a Parcel Map shall be required for all subdivisions coming within the exceptions set forth in Section 66426 of SMA.

(d) For subdivisions creating fewer than five parcels or units, no Tentative Map shall be required except as provided in Section 1433.1(a) for Vesting Tentative Maps and except where the Director deems a Tentative Map would be appropriate and the applicable City regulations for the subject property would permit development at a density such that the subject property, or any portion thereof, may be resubdivided in a manner which would ultimately permit five or more parcels on the subject property. In all other subdivisions creating fewer than five parcels or units, a Parcel Map containing the information specified by Section 1459 of this Code and SMA shall be required. Said Parcel Map shall be filed with the Director and recorded according to the procedure set forth in Sections 1460 through 1464 of this Code.

(e) No Tentative Map, Final Map or Parcel Map shall be required for those specific types of subdivision exempted by Sections 66412 and 66428 of SMA; provided, however, that with respect to subdivisions described in Subsection (h) of Section 66412 of the SMA, certification pursuant to the provisions of Section 1397 must be obtained.

(f) The Director shall waive the requirement of a Parcel Map for any improved or unimproved land shown on the latest equalized County assessment roll as contiguous units or parcels where the units or parcels have been subdivided legally and comply with the requirements as to lot width and area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection.

(g) Nothing herein shall preclude the approval and filing of Subdivision Maps for purposes of financing and conveyancing only as provided in Section 1412.1 herein. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1404. ENFORCEMENT.

(a) It is unlawful for any person, firm, corporation, partnership or association to offer or contract to sell, lease, finance, or construct any building for sale, lease or financing on any parcel or parcels of real property for which a Final Map or a Parcel Map is required unless and until a Final Map or Parcel Map in full compliance with the provisions of this Code and SMA, has been duly recorded in the office of the Recorder. This section does not prohibit an offer or contract to sell, lease, or finance any parcel or parcels of real property where the sale, lease or financing is expressly conditioned upon the filing, approval and recordation of a Final or Parcel Map or where the SMA is inapplicable.

(b) All departments, officials and public employees of the City, City agencies or the agency vested with the duty or authority to approve or issue permits, shall act consistent with the provisions of this Code, the Plans and the Plan Documents and shall neither approve nor issue any permit or license for use, construction, or purpose in conflict with the provisions of this Code, the Plans and the Plan Documents. Any such permit or license issued in conflict with the provisions of this Code, Plans and the Plan Documents shall be null and void. No conditions shall be imposed on or in connection with Tentative Maps, Vesting Tentative Maps, Parcel Maps or Final Maps, including improvements plans and improvement agreements, that conflict with the Plans and Plan Documents.

(c) Any subdivider, agent of a subdivider, successor in interest of a subdivider, tenant, purchaser, builder, contractor or other person who violates any of the provisions of this Code or any conditions imposed pursuant to this Code, or who knowingly submits incorrect information to endeavor to mislead or misdirect efforts by City agencies in the administration of this Code, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding $2,000 or be imprisoned for a period not exceeding six months or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(d) The Director shall have the authority to enforce this Code against violations thereof in accordance with Chapter 7, Sections 66499.30 et seq. of the SMA. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this Code or the SMA if it finds that development of the real property is contrary to the public health, safety or welfare. The authority to deny a permit or approval shall apply whether the applicant was the owner of the real property at the time of the violation or whether the applicant is the current owner of the real property, with or without actual or constructive knowledge of the violation at the time of the acquisition of interest in the real property. Whenever the City has knowledge that property has been divided in violation of the provisions of the SMA or this Code, the Director shall process a

notice of violation and meet and confer with the owner pursuant to SMA Section 66499.36. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1404.1. CERTIFICATE OF COMPLIANCE.

(a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property, may request the Director to determine whether the real property complies with the provisions of this Chapter and the SMA. The Director shall forward the request to the City Attorney for review.

(b) Upon making a determination of compliance, the Director shall, in accordance with Section 66499-35 of the SMA cause a certificate or conditional certificate of compliance approved as to form by the City Attorney to be filed for record with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division of land complies with applicable provisions of the City regulations and the SMA.

(c) A recorded Final or Parcel Map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(d) If the Director determines that the real property does not comply with the provisions of this Code or the SMA the Director shall issue a conditional certificate of compliance. In issuing a conditional certificate of compliance the Director may impose such conditions (including but not limited to filing an application for a corrected Tentative, Final or Parcel Map) as would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at such time by this Code or the SMA. Where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who by a grant of real property created a parcel or parcels in violation of this Code or the SMA, and that person is the current owner of record of one or more of the parcels which were created as a result of the grant on violation of this Code or the SMA, then the Director may impose any conditions which would have been applicable to a current division of the property. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1405. SEVERABILITY.

(a) If any Article, Section, subsection, paragraph, sentence, clause or phrase of this Code, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, or other competent agency, such decisions shall not affect the validity or effectiveness of the remaining portions of this Code or any part thereof. The Board of Supervisors hereby declares that it would have passed each Article, Section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more Articles, Sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

(b) If the application of any provision or provisions of this Code to any person, property or circumstances is found to be unconstitutional, invalid or ineffective in whole or in part by any court of competent jurisdiction, or other competent agency, the effect of such decision shall be limited to the person, property or circumstances immediately involved in the controversy and the application of any such provisions to other persons, properties and circumstances shall not be affected.

(c) This Section shall apply to this Code as it now exists and as it may exist in the future, including all modifications thereof and additions and amendments thereto. (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 2: DEFINITIONS

Sec. 1406. General.
Sec. 1407. Government Agencies.
Sec. 1409. Terminology.

SEC. 1406. GENERAL.

Officials and agencies referred to in this Code and in SMA are officials and agencies of the City and County of San Francisco and the Agency, unless the contrary is either stated or implied. Capitalized terms unless separately defined in this Code have the meanings and content set forth in the Plans and Plan Documents. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1407. GOVERNMENT AGENCIES.

(a) "Advisory Agency" and "Director" mean the Director of the City Department of Public Works.

(b) "Agency" means the Redevelopment Agency of the City and County of San Francisco.

(c) "Bureau of Engineering" means the City Bureau of Engineering of the Department of Public Works.

(d) "City" means the City and County of San Francisco.

(e) "City agencies" means the City and, where appropriate, all City departments, agencies, boards, commissions, and bureaus with subdivision or other permit, entitlement, review or approval authority or jurisdiction over any major phase or project in the Mission Bay Project Area or any portion thereof.

(f) "City regulations" shall have the meaning given in the Plans.

(g) "Clerk" means the Clerk of the Board of Supervisors for the City.

(h) "County," "City," "City and County," "Municipality" and "Local Agency" mean the City and County of San Francisco.

(i) "County Surveyor," "County Engineer" and "City Engineer" mean the Director and his staff.

(j) "Department of Building Inspection" and "DBI" mean the City Department of Building Inspection.

(k) "Department of Public Works" means the City Department of Public Works.

(l) "Governing Body," "Legislative Body" and "Board" mean the City Board of Supervisors.

(m) "Government agencies" means State, federal, regional or local governmental agencies, other than City agencies, having or claiming jurisdiction over all or portions of the Mission Bay Project Area or aspects of its development.

(n) "Plan Documents" means the Plans and their implementing documents, including without limitation, this Code and regulations adopted hereunder, owner participation agreements, and the design for development.

(o) "Plans" mean the Redevelopment Plan for Mission Bay North and the Redevelopment Plan for Mission Bay South.

(p) "Planning Department" means the City Department of Planning.

(q) "Planning Director" shall mean the City Director of Planning.

(r) "Project Area" or "Mission Bay Project Area" includes all of the North Plan Area and all of the South Plan Area as described in the Mission Bay North Redevelopment Plan and the Mission Bay South Redevelopment Plan, respectively.

(s) "Subdivider" or "applicant" shall mean the owner of real property, or the owner's authorized agent or representative, who applies for, or obtains, approval to subdivide such real property.

(t) "Subdivision" shall mean, in accordance with Government Code Section 66424 and subject to the exclusions described in the SMA, including Government Code Section 66412, the division of any improved or unimproved land, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the

purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way. Subdivision includes a condominium project, as defined in Section 1451(f) of the California Civil Code or a community apartment project, as defined in Section 1451(d) of the California Civil Code. Any conveyance of land to a governmental agency, public entity, public utility or subsidiary of a public utility for rights-of-way shall not be considered a division of land for purposes of computing the number of lots. Subdivision does not include a lot line adjustment. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1409. TERMINOLOGY.

(a) "Application packet" shall mean the Tentative Map together with all documents, statements and other materials that are required as attachments thereto.

(b) "Final Map" shall mean a map prepared in accordance with Chapter 2, Article 2 of SMA and this Code, which map is designed to be placed on record in the office of the Recorder.

(c) "Improvement plan" shall mean an engineering plan or a set of engineering plans showing the location and construction details of improvements.

(d) "Parcel Map" shall mean a map prepared in accordance with Chapter 2, Article 3 of SMA and this Code, which map is designed to be placed on record in the office of the Recorder.

(e) "Soil engineer" shall mean a qualified and duly licensed engineer, experienced in engineering geology, responsible for the soil engineering work outlined in this Code, including supervision, analysis and interpretation of field investigation and laboratory tests for a specific project; preparation of geological and soil engineering recommendations and specifications; and supervision of grading construction work.

(f) "Standard Specifications" shall mean the Standard Plans and Specifications of the Bureau of Engineering, including any modifications thereof as set forth in the Plans, Plan Documents or Subdivision Regulations.

(g) "Tentative Map" shall mean a map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it; such a map need not be based upon an accurate or detailed final survey of the property.

(h) "Vesting Tentative Map" shall mean a tentative map which has been filed, processed and approved in accordance with the Vesting Tentative Map Statute, Government Code Section 66498.1 et seq., and this Code and which shall have at the time of filing printed conspicuously on its face the words "Vesting Tentative Map." (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 3: GENERAL PROCEDURAL PROVISIONS

Sec. 1410. Advisory Agency.
Sec. 1411. Subdivision Regulations.
Sec. 1412. Exceptions.
Sec. 1412.1. Conveyancing or Finance Maps.
Sec. 1412.2. Lot Line Adjustments.
Sec. 1413. Notice and Hearing.
Sec. 1414. Appeals.
Sec. 1415. Fees.

SEC. 1410. ADVISORY AGENCY.

(a) The Director is hereby continued as the Advisory Agency for all purposes hereunder and under the SMA.

(b) All maps, plans and reports required by this Code shall be filed with the Director. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1411. SUBDIVISION REGULATIONS.

(a) The Director, with the assistance of other City Agencies, shall prepare and publish the Mission Bay Subdivision Regulations ("Subdivision Regulations") needed to implement and supplement this Code in accordance with the SMA, this Code, the Plans and Plan Documents.

(b) Such Regulations shall be adopted by the Director after holding a public hearing. The decision of the Director in adopting the Subdivision Regulations shall be subject to review by the Agency for consistency with the Plans. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1412. EXCEPTIONS.

(a) Upon application by the subdivider, the Director may, subject to the SMA, authorize exceptions to any of the requirements set forth in this Code and in the Subdivision Regulations.

(b) Before granting any such exception in whole or in part, the Director must find:

(1) That the application of certain provisions of this Code or the Subdivision Regulations would result in practical difficulties or unnecessary hardships affecting the property inconsistent with the general purpose and intent of the Plans and Plan Documents;

(2) That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated; and

(3) That the granting of such exception will not be contrary to the Plans.

(c) In granting any such exception, the Director shall designate the conditions under which the exception is granted.

(d) The Director shall not grant any exceptions in violation of the SMA.

(e) The standards and requirements of this Code and the Subdivision Regulations shall, where necessary, be modified by the Director where the Director finds such modifications are necessary to assure conformity to and achievement of the standards and goals of the Plans.

(f) If the Director elects to hold a public hearing with respect to an application for exception, the Director shall give notice not less than 10 days and no more than 15 days prior to the hearing date as provided in Subsection (a) of Section 1413. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1412.1. CONVEYANCING OR FINANCE MAPS.

Subdivider may file Subdivision or Parcel Maps for purposes of financing and conveyancing only (hereinafter referred to as a "Transfer Map").

(a) When subdivider submits a Tentative Map or Parcel Map application for a Transfer Map, the proposed map shall have printed conspicuously on its face "FOR PURPOSES OF FINANCING AND CONVEYANCING ONLY."

(b) A Transfer Map shall condition development of the parcels therein upon provision of all necessary infrastructure, as described in the

Plans and Plan Documents, to be provided in connection with subsequent City permits, subdivision or parcel maps and improvement plans, as applicable.

(c) The Final or Parcel Map for a Transfer Map shall contain notes, restrictions, references or conditions as approved by the City, which may, among other things, prohibit development on the parcels absent compliance with the Plans and Plan Documents, and all other applicable City regulations.

(d) No Transfer Map may be approved without Agency approval. In addition, no Transfer Map may be approved for any parcel smaller than a numbered parcel as shown on the Land Use Plan as described in the Plan Documents, prior to approval by the Agency of the major phase for the area which includes the parcels proposed to be subdivided except for the following exceptions, as approved by the Agency: (1) subdivision or parcel maps which may be required to accommodate interim uses or development; (2) subdivision or parcel maps which may be required to transfer Advance Delivery Affordable Housing Parcels; (3) any subdivision or parcel maps which may be required for any easement parcels required to be transferred pursuant to the Amended and Restated City Land Transfer Agreement; or, (4) any other exceptions specifically reviewed by the Agency.

(e) Approval of a Transfer Map shall not be deemed to permit any development of, or construction on, a parcel.

(f) The Director may waive certain submittal requirements for Tentative Maps for a Transfer Map application in accordance with Section 1422(c) hereof. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1412.2. LOT LINE ADJUSTMENTS.

"Lot line adjustment" shall have the meaning as described in Government Code Section 66412. Applications for lot line adjustments shall be considered by the Director consistent with the provisions of Government Code Section 66412. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1413. NOTICE AND HEARING.

(a) The Director shall give notice in the following manner to the public and interested parties of each application for a Tentative Map, or for a Parcel Map for which a Tentative Map is not required and an application for an exception filed pursuant to Section 1412.

(1) Notice of the Director's receipt of an application shall be published in at least one newspaper of general circulation within the City and County of San Francisco.

(2) Notice of the Director's receipt of the application shall be mailed or delivered to each local agency expected to provide or approve water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the Director's receipt of the application shall be mailed or delivered to all owners of real property, as shown on the latest equalized assessment roll, within 300 feet of the real property that is the subject of the application. In lieu of utilizing the assessment roll the local agency may utilize records of the County Assessor or Tax Collector which contain more recent information than the assessment roll. A copy of such notice shall be mailed to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant, if a different person. If the number of persons to whom notice would be mailed or delivered pursuant to this paragraph is greater than 1,000, the Director, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least 1/8 page in at least one newspaper of general circulation within the City and County of San Francisco at least 10 days prior to the hearing.

(4) Notice of the Director's receipt of the application shall be mailed or delivered to any person who has filed a written request for notice with the Director's office.

(b) When a public hearing is requested in writing within 10 days of the date that notice of an application subject to Subsection (a) of this Section was sent or published, by a person whose

interest would be affected, the Director shall hold a public hearing with respect to the application in question.

(c) If the Director is required or elects to hold a public hearing with respect to an application, he or she shall give notice not less than 10 days prior to the hearing date as provided in Subsection (a) of this Section. No public hearing shall be held until after government agencies and City agencies comments are received or the time period for receiving such comments has run, whichever occurs first, and the Director has provided a written report in accordance with Section 1429.

(d) All applications for a Tentative Map, or for a Parcel Map for which a Tentative Map is not required, shall include, in addition to all other information required:

(1) A list of the names, assessor's lot and block numbers and mailing addresses of all those shown in the last equalized assessment roll as owning property within 300 feet of the property proposed to be subdivided.

(2) A 300-foot radius map delineating all the properties described in Subsection (d)(1).

(3) Three stamped envelopes preaddressed to each of the listed property owners, suitable for mailing notice of the application and of any hearing or appeal thereon. Blank Department of Public Works envelopes will be furnished to a proposed subdivider on request. Unused envelopes will be returned to the proposed subdivider on request.

(e) Any Department hearing required or permitted by this Code may, at the discretion of the Director be held jointly with the Department of Planning. The provisions of this Section shall be superseded by those of any amendment to California Government Code Sections 65090 or 65091, or by any provision of the SMA, should the amended provisions require additional notice.

(f) Applications for Tentative and Parcel Maps shall be processed in compliance with the Plans, Plan Documents and California Government Code Sections 65920 to 65963.1 and any applicable Government Code Section amendments. For the purposes of appealing a decision by the Director as to completeness of an application pursuant to California Government Code Section 65943, the appeal must be made to the Board of Supervisors. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1414. APPEALS.

(a) The proposed subdivider, and any person who owns property within 300 feet of a proposed subdivision, may appeal to the Board from a final decision of the Director approving, conditionally approving, or disapproving a Tentative Map, or a Parcel Map for which a Tentative Map is not required. Any such appeal must be filed in writing with the Clerk of the Board within 10 days of release of the decision appealed, and must be accompanied by the fee specified in Section 1415(b) of this Code.

(b) The Director shall mail or deliver to the proposed subdivider, and any person who owns property within 300 feet of a proposed subdivision, notice of: (1) his or her decision, and the findings in support of such decision, on any Tentative Map, or Parcel Map for which a Tentative Map is not required, and of any conditions which may have been incorporated in a conditional approval; (2) the right to appeal the Director's decision; and (3) the availability for examination of the Director's report.

(c) With respect to appeals under this Section, the Board shall schedule a hearing on the appeal to be held within 30 days after the appeal has been filed, and shall give notice as provided in Sections 1413(a)(1) and 1413(a)(2), and to the persons entitled to notice of the Director's decision under Section 1414(b). (Added by Ord. 329-98, App. 10/30/98)

SEC. 1415. FEES.

(a) Fees, payable to the Department of Public Works, shall be charged for checking and processing all maps, plans and reports, including all condominium maps and Parcel Maps, filed under this Code. Said fees shall consist of an initial payment in accordance with the estimated actual cost of checking the maps, plans and reports, together with investigations incidental

thereto, and shall be paid before or at the time of filing a Tentative Map or a Parcel Map. Where initial payment is insufficient to compensate the actual cost incurred, an additional sum shall be charged to equal such actual cost. Fees for Parcel Maps, excepting condominium maps, which do not require the filing of a Tentative Map, and which do not involve street dedications or improvements, and for parcel map waivers shall be charged for checking and for processing in accordance with the City's Subdivision Code of general applicability. All such fees for Parcel Maps shall be paid at time of filing. Fees based on the actual cost of processing shall be charged to (1) the person requesting a certificate of compliance for processing and making a determination on the request, (2) the owner of the property who files a petition for initiating reversion to acreage proceedings for processing the petition and (3) the subdivider for checking, processing and recording an amended map or certificate of correction. The fees for processing a request for a certificate of compliance, a petition for reversion to acreage and an amended map or certificate of correction, shall be determined by the Director and set forth in the Subdivision Regulations. Nonprofit organizations with tax-exempt status under the Internal Revenue Code shall be exempt from payment of the checking and processing fees where the organization is building housing to be used exclusively for the benefit of residents who are low-income, as that term is defined in the Plans and Plan Documents.

(b) A fee of $250 shall be charged to the appellant to defray costs of an appeal under Section 1414 of this Code.

(c) Payment of fees charged under this Code does not waive the fee requirements of other ordinances and rules and regulations pursuant thereto.

(d) There is hereby created a Subdivision Fund wherein all funds received under the provisions of this Section shall be deposited. All expenditures from the Fund shall be for engineering or technical investigations, services, consultants, and equipment directly related to the checking and processing of the maps, plans, reports and Parcel Map waivers filed under this Code, and all such expenditures are hereby appropriated for said purposes. The applicant, owner or subdivider, as applicable, shall be reimbursed to the extent estimated fees paid exceed actual costs. At the request of the applicant, the Director shall provide a reasonably detailed accounting of the City's actual costs of checking and processing incurred hereunder. (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 4: TENTATIVE MAPS

Sec. 1420. Pre-Filing Conference.
Sec. 1421. Application Packet.
Sec. 1422. Tentative Map and Accompanying Documents.
Sec. 1424. Filing.
Sec. 1425. Referral to Other Agencies.
Sec. 1426. Time Limit for Agency Review.
Sec. 1427. Agency Reports.
Sec. 1428. Subdivision Conference.
Sec. 1429. Director's Consolidated Report.
Sec. 1430. Conditions.
Sec. 1431. Action: Advisory Agency's Decision.
Sec. 1432. General Plan and Redevelopment Plan Consistency Determination.
Sec. 1433. Vesting Tentative Maps.
Sec. 1433.1. Vesting Tentative Map.
Sec. 1433.2. Vesting Tentative Map Requirements.
Sec. 1433.3. Rights Conveyed.
Sec. 1433.4. Vesting Tentative Maps—Inconsistency with Ordinances and Other Standards.
Sec. 1434. Agency Review and Approval of Subdivision Maps.

SEC. 1420. PRE-FILING CONFERENCE.

Prior to filing a Tentative Map, the Subdivider may elect to submit to the Director preliminary maps, plans and other data concerning a proposed subdivision. Within 14 days after the receipt of said material, the Director will hold a conference with the Subdivider, Planning Department and any other interested agencies, including the San Francisco Redevelopment Agency, to discuss the proposed subdivision. This procedure is optional and does not waive the requirements for filing a Tentative Map. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1421. APPLICATION PACKET.

The initial action in connection with the making of any subdivision for which a Tentative Map is required shall be the preparation of the application packet. Section 1422, and with respect to Vesting Tentative Maps Sections 1433.1 and 1433.2, of this Code and the Regulations adopted thereunder cover the preparation of the component parts of said application packet. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1422. TENTATIVE MAP AND ACCOMPANYING DOCUMENTS.

(a) The Tentative Map shall be prepared by a qualified and duly licensed professional land surveyor or civil engineer.

(b) The Tentative Map shall contain the following data, as appropriate, in sufficient detail to enable the Director and other agencies to evaluate the proposed subdivision:

(1) Title, as required by the Subdivision Regulations;

(2) Explanatory notes, as required by this Code and the Subdivision Regulations; and

(3) Topographic map of the proposed subdivision and adjacent lands showing the existing conditions and the proposed changes, as required by the Subdivision Regulations.

(c) The Tentative Map shall conform to the Subdivision Regulations regarding format and contents. The Director may, for Transfer Maps and where otherwise appropriate in accordance with the Subdivision Regulations, defer Tentative Map requirements or may authorize deletion or reduction of any Tentative Map requirements not required by the SMA on the determination that the Tentative Map contains sufficient information to be evaluated adequately and preparing it in the prescribed form would impose a hardship upon the subdivider. Where

requirements are deferred, appropriate conditions may be included on the Tentative Map for providing such deferred requirements.

(d) The Tentative Map shall be accompanied by the following documents, as provided in the Subdivision Regulations:

(1) Statement. A written statement shall contain the following information:

(i) Existing use or uses of the property, including whether or not there are existing tenancies and the conditions and terms thereof;

(ii) Description of the proposed subdivision, including, if known, the number of lots or units, their sizes and intended uses, nature of the development, and the total area of the development represented by each use;

(iii) Any improvements proposed to be constructed or installed including the source of water supply and the sewage disposal proposed, and the tentative schedule for the start and completion thereof;

(iv) Whether the subdivider intends to file a Final Map or a Parcel Map;

(v) Description of variances and exceptions that are requested; and

(vi) If the subdivider plans to file multiple Final Maps on portions of the area covered by the Tentative Map, the subdivider shall submit a written notice to this effect.

(2) Environmental Evaluation Data. Data shall be supplied on the appropriate Planning Department forms for an environmental evaluation or in appropriate format when necessary to satisfy requirements for environmental review under the California Environmental Quality Act. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1424. FILING.

(a) The application packet, together with the initial fee payment, shall be filed with the Director.

(b) The date of filing shall be the date when a complete application packet has been accepted by the Director.

(c) Upon date of filing the application packet shall become a public record.

(d) The Director shall determine whether an application packet is complete and notify the subdivider within 30 days of the date of the submittal of the application packet. If the Director determines that the application packet is not complete, the notice to the subdivider shall list all of the information necessary to comprise a complete application. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1425. REFERRAL TO OTHER AGENCIES.

Within three working days after a complete application packet has been filed with the Director, the Director shall forward copies to the Agency, the Planning Department, the Bureau of Engineering, the Department of Building Inspection, the City Attorney, and other appropriate government agencies and City agencies for their review. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1426. TIME LIMIT FOR AGENCY REVIEW.

(a) The time limit for government agency and City agencies review shall be 30 days from the date the Director determines that an application packet is complete.

(b) The time limit for government agency and City agencies review may be modified in accordance with the Plans and Documents and extended by mutual consent of the subdivider and the Director. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1427. AGENCY REPORTS.

Each reviewing agency shall report, in writing, to the Director with a copy to the subdivider, its findings on and recommendation for approval, conditional approval or denial of an application packet subject to and in accordance with the Plans and Plan Documents. The Planning Department's report shall include a finding on consistency with the General Plan. The Agency's report shall include a finding of consistency with the Plans and Plan Documents. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1428. SUBDIVISION CONFERENCE.

No later than five days after expiration of the review time limits or any mutually agreed extension thereof, the Director at his or her discretion may hold a subdivision conference to discuss the map application, unless the subdivider has requested a conference or has filed a notice of intent to file multiple Final Maps, in which case the conference is mandatory. Written notice of such conference shall be sent to the subdivider, and to all agencies who will be submitting or have already submitted a report on the application packet. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1429. DIRECTOR'S CONSOLIDATED REPORT.

(a) Whenever a subdivision conference is held, the Director shall prepare a written report on the findings or recommendations discussed in the conference, attaching thereto copies of the reports from, or comments made at the subdivision conference by, other agencies. A copy of said report shall be sent to each participant in the subdivision conference. Said report shall be prepared by the Director within five working days after the subdivision conference but in no event less than five days prior to any required public hearing,

(b) Whenever a public hearing is required, the Director shall provide to the subdivider the Director's report or recommended findings and the findings and recommendations received from the reviewing agencies. Said information or report shall be submitted within five working days after expiration of the review time limits. Said information or report shall be made available to the public prior to the public hearing. In the event a subdivision conference is required, a public hearing shall be held after such conference, no earlier than five days following preparation of the Director's report thereon, and within the time periods set forth in the SMA. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1430. CONDITIONS.

(a) Conditions on approval of a Tentative Map, Vesting Tentative Map, or Parcel Map, or improvement plans or agreement may relate wholly or in part to any improvements or structures which may be constructed within, or associated with, the subdivision, as well as to the subdivision itself.

(b) Subject to Section 1412.1, conditions may be required to be fulfilled before or after such filing of the related Final or Parcel Map. Where such conditions are to be fulfilled after filing of the related Final Map, the subdivider shall, where appropriate, enter into an improvement agreement and furnish security for compliance with those conditions including but not limited to security satisfying the requirements of California Government Code Section 66499, pursuant to the provisions of Article 6 and Article 8 of this Division.

(c) No conditions shall be imposed on a Tentative Map, Vesting Tentative Map or Parcel Map or improvement plans or improvement agreement that are not consistent with, exceed the limitations set forth in, or otherwise conflict with the Plans or Plan Documents.

(d) The provisions of this Code providing for Vesting Tentative Maps do not enlarge, diminish, or alter the types of conditions which may be imposed on a development, nor in any way diminish or alter the City's power to protect against a condition dangerous to the public health or safety.

(e) The Mission Bay Project Area consists of two redevelopment areas with many improvement requirements set forth in the Plans and Plan Documents which will be phased during the development of the project. Many of these improvement requirements will be required by specific, Mission Bay Project Area-wide levels of development. It is therefore possible that a Tentative Map or Parcel Map for a specific development proposal will trigger the requirement for Mission Bay Project Area-wide improvements, based on all development that has occurred to date in the Mission Bay Project Area. For purposes of the Subdivision Map Act, including, but

not limited to, Government Code Section 66411.1, any such improvement requirements that are imposed as conditions upon a division of land shall be deemed to be reasonable offsite and onsite improvements for the parcels being created. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1431. ACTION: ADVISORY AGENCY'S DECISION.

(a) Within 50 days after the filing of a complete application for the Tentative Map, unless the time has been extended by mutual consent of the subdivider and the Director, the Director shall take action on the map application by approving, conditionally approving or disapproving the Tentative Map. If the map is disapproved, the Director shall also state the reasons for disapproval.

(b) Copies of the Director's decision shall be sent to all agencies that submitted reports to the Board and to the public as set forth in Section 1414.

(c) The City shall comply with all time limitations and requirements for processing subdivision maps in the SMA, including, without limitation, those in Government Code Section 66452.4. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1432. GENERAL PLAN AND REDEVELOPMENT PLAN CONSISTENCY DETERMINATION.

(a) Whenever a property is to be subdivided, the Department of Planning shall report on the question of consistency of the subdivision with the General Plan and the Redevelopment Agency shall report on consistency with the Plans.

(b) The Director shall disapprove the proposed subdivision when the proposed subdivision is not consistent with the Plans, Plan Documents or General Plan, subject to any decision on appeal by the Board of Supervisors.

(c) When the Department of Planning or the Agency finds, subject to any decision on appeal by the Board of Supervisors, or when the Board of Supervisors finds, that a proposed subdivision will be consistent with the Plans, Plan Documents or General Plan only upon compliance with certain conditions, the Director shall incorporate said conditions in his or her conditional approval of the proposed subdivision. (Added by Ord. 329-98, App. 10/30/98).

SEC. 1433. VESTING TENTATIVE MAPS.

SEC. 1433.1. VESTING TENTATIVE MAP.

(a) Whenever a provision of this Code requires that a Tentative Map or Parcel Map be filed, the subdivider may file instead a Vesting Tentative Map and Final Map.

(b) Except as otherwise provided in Sections 1443.2 through 1443.5 of this Code, a Vesting Tentative Map shall be subject to the same procedures, requirements and other Code provisions as any other Tentative Map. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1433.2. VESTING TENTATIVE MAP REQUIREMENTS.

In addition to meeting the requirements otherwise applicable to Tentative Maps, any subdivider applying for approval of a Vesting Tentative Map shall also, at the time a Vesting Tentative Map application is filed:

(1) Have printed conspicuously on the face of the map the words "Vesting Tentative Map."

(2) Provide such additional information as required to be submitted to the Redevelopment Agency for a Major Phase Concept Plan application as described in the Design Review and Document Approval Procedure of the Plan Documents, provided that the Director may exempt the subdivider from such requirements in accordance with this Code. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1433.3. RIGHTS CONVEYED.

(a) Approval of a Vesting Tentative Map shall confer a vested right to proceed with development as set forth in Chapter 4.5 of the SMA, Section 66498.1 et seq.

(b) The right referred to in Subsection (a) shall expire if a Final Map is not approved before expiration of the related Vesting Tentative Map

under California Government Code Section 66452.6 and this Code. If a Final Map is approved, the development right referred to in Subsection (a) shall continue during the following period of time:

(1) Two years from recording of the approved Final Map. Where several Final Maps are recorded on various phases of a project covered by a single Vesting Tentative Map, this initial time period shall begin for each when the Final Map for that phase is recorded. Where the City uses more than 30 days to process a completed application for a grading permit or for design or architectural review, or such other period of time as provided in the Plan Documents, this initial time period shall be extended by the processing time, counted from the date the application was completed.

(2) An additional period of not more than one year, if the proposed subdivider applies for such an extension at any time before the expiration of the period provided in Subsection (b)(1), and if the Department of Public Works determines that such extension will not prejudice the interests of the public or other private parties. If the Department of Public Works does not act on an application for extension within 40 days after receiving it, it shall be deemed approved. The proposed Subdivider may appeal by filing a written appeal with the Clerk of the Board of Supervisors not later than 15 days after the disapproval. Any such appeal shall be heard at the time and under the procedural rules then applicable to appeals from denial of Tentative Maps.

(3) If the subdivider submits a complete building or site permit application before the expiration of the applicable period stated in Subsection (b)(1) or (b)(2), the period during which that application is being processed and the period of the life of any corresponding building or site permit, or any extension thereof.

(4) If a Final Map is recorded based upon a Vesting Tentative Map and the development rights under this Section expire, the Final Map remains in effect without those rights. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1433.4. VESTING TENTATIVE MAP—INCONSISTENCY WITH ORDINANCES AND OTHER STANDARDS.

(a) Subsections 1433.1 through 1433.3 relate only to conditions and requirements imposed by the City and do not affect the obligation of a subdivider to comply with the conditions and requirements of State or federal laws, regulations or policies.

(b) Notwithstanding any other provision of this Code, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies or standards applicable under Section 1433.3(a), and the City may grant such approvals or issue such permits to the extent consistent with the Plans and Plan Documents and permitted by otherwise applicable City regulations. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1434. AGENCY REVIEW AND APPROVAL OF SUBDIVISION MAPS.

(a) Notwithstanding any provision of the Subdivision Code to the contrary, a Tentative Map shall not be deemed finally approved until the agency in accordance with the Plan Documents, reviews and approves the Tentative Map to ensure that it is consistent with the Plans and the Plan Documents, including the infrastructure plan, the scope of development and the design for development. The agency shall also have the right to review any amendment to the Tentative Map, or a subsequent Tentative Map.

The applicant shall submit copies of its application packet for a Tentative Map, and the application packet for an amendment to a Tentative Map or a subsequent Tentative Map, to the Agency when it submits the application packet to the Director. The Agency shall, in accordance with the Plan Documents, approve, disapprove or approve with conditions the Tentative Map, amendment to the Tentative Map, or a subsequent Tentative Map within 30 days following receipt of an application packet, unless such time has been extended pursuant to Section 1426 of the Subdivision Code. The Agency shall

deliver the determination to the Director of Public Works in writing, with a copy to the applicant.

(b) Notwithstanding any provision of the Subdivision Code to the contrary, in accordance with the Plan Documents, a proposed Final Map or Parcel Map shall not be deemed finally approved for recordation unless and until the Agency reviews and approves or is deemed to have approved the proposed Final Map or Parcel Map. The Agency shall approve the proposed Final Map or Parcel Map if: (i) development of the area covered by the proposed Final Map or Parcel Map is consistent with the Plans and Plan Documents and any major phase or project approvals issued by the Agency, if any; and (ii) the conditions that were imposed upon approval of the Tentative Map to provide infrastructure improvements consistent with the Plans and Plan Documents have been satisfied, or the performance of such conditions is otherwise secured by an improvement agreement.

The applicant shall submit copies of all proposed Final Maps or Parcel Maps at the same time such proposed Final Maps or Parcel Maps are filed with the Agency. The Agency shall, in accordance with the Plan Documents, approve, disapprove, or approve with conditions the proposed Final Maps or Parcel Maps within 30 days following receipt of the proposed Final Map or Parcel Map from the applicant, by delivering a determination to the Director of Public Works, with a copy to the applicant. If the Agency fails to act within such 30-day period, this requirement shall be deemed to be waived. (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 5: SUBDIVISION REQUIREMENTS

Sec. 1435. Public Facilities.
Sec. 1435.1. Off-Site Improvements.
Sec. 1436. Utilities.
Sec. 1437. Beautification.
Sec. 1438. Parkland Dedication.
Sec. 1439. Easements.
Sec. 1440. Monuments.

SEC. 1435. PUBLIC FACILITIES.

(a) **General.** Public facilities listed in this Section shall (where provided) meet the design and construction standards in the Plans, Plan Documents and the Mission Bay Subdivision Regulations consistent therewith.

(b) **Streets.**

(1) **Dedicated Public Streets.** A subdivision shall have direct access to a public right-of-way. Title to a new or widened public right-of-way shall be conveyed to the City by proper deed either prior to approval of the Final Map or as provided in an improvement agreement entered into pursuant to Section 1451.

(2) **Private Streets.** Easements for government facilities in private streets shall meet the requirements of Section 1439 of this Code.

(c) **Frontage Improvements.** The frontage of each lot shall be improved to the geometric section specified by the Director in accordance with the Plans, Plan Documents and Mission Bay Subdivision Regulations, including street structural section, curbs, sidewalks, planting areas, driveway approaches and transitions.

(d) **Pedestrian Ways.** Pedestrian ways shall be required in accordance with the Plans and Plan Documents.

(e) **Sanitary and Drainage Facilities.** The subdivider shall provide sanitary and drainage facilities consistent with the Plans, Plan Documents and Mission Bay Subdivision Regulations. When connected to City facilities, such facilities will serve adequately all lots, dedicated areas and all other areas comprising the subdivision.

(f) **Fire Protection.** The subdivider shall provide for the installation of fire hydrants and other appurtenances and facilities needed for adequate fire protection consistent with the Plans and Plan Documents.

(g) **Street Lighting.** The subdivider shall provide street lighting facilities along all streets, alleys and pedestrian ways consistent with the Plans and Plan Documents.

(h) **Fencing.** An approved fence may be required on parcels or lots within the subdivision adequate to prevent unauthorized access between the subdivided property and adjacent properties.

(i) **Other Improvements.** Other improvements may be required including, but not limited to, grading, temporary fencing, signs, street lines and markings, street trees and shrubs, street furniture, landscaping, monuments, bicycle facilities, and smoke detectors, or fees in lieu of any of the foregoing, shall also be required as determined by the Director in accordance with this Code, but only to the extent consistent with the Plans, Plan Documents, the General Plan and applicable City regulations. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1435.1. OFF-SITE IMPROVEMENTS.

If the Subdivider is required by the Plans or Plan Documents to construct off-site improvements on land which the Subdivider or his predecessor in interest did not own or have sufficient title or interest at the time the tentative or final map is filed, and in which neither the subdivider nor the City has sufficient title or interest to allow construction, the City shall, within 120 days of recording the Final Map that triggers the off-site improvement requirement, acquire by negotiation or commence condemna-

tion of the land. If the City fails to meet the 120-day time limit, the condition for the construction shall be waived. Prior to approval of the Final Map, the City may require the subdivider to enter into an agreement to complete the off-site improvements at the time the City acquires title or an interest in the land in accordance with the Plans. The subdivider shall pay to the City, and/or to a third party at the City's direction, all of the cost of acquiring off-site land or an interest in the land (including all costs preparatory to or incurred as a result of a proceeding in eminent domain) required to construct the off-site improvements, in accordance with the Plans and Plan Documents. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1436. UTILITIES.

The subdivider shall, if required in accordance with the Plans and Plan Documents, provide or cause to be provided a domestic low pressure water system and a high pressure water system, connected to the San Francisco Water Department's water distribution system. The subdivider shall also provide electric, gas and communication services connected to the appropriate public utility's distribution system. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1437. BEAUTIFICATION.

(a) **Undergrounding of Utilities.** All new utility lines shall be undergrounded as specified in Article 18 of the Public Works Code.

(b) **Street Trees and Landscaping.** Trees planted along a public street, within the right-of-way, and all landscaping within said right-of-way shall conform to the requirements of the Plans, Plan Documents and Article 16 of the Public Works Code to the extent consistent therewith. In the case of all newly constructed subdivisions, the subdivider shall provide street trees and landscaping conforming to the policies of the General Plan. Provisions shall be made for maintenance of said trees.

(c) **Open Areas.** When required pursuant to the Plans and Plan Documents, the subdivider shall provide for the landscaping of open areas and provision shall be made for the maintenance thereof. Such open areas shall be restricted to such use in accordance with the Plans and Plan Documents. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1438. PARKLAND DEDICATION.

Park and open space improvements and dedications shall be provided as required by the Plans and Plan Documents, and in conformance with the standards set forth therein. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1439. EASEMENTS.

Easements for sanitary and drainage facilities, fire protection facilities and City-owned street lighting facilities shall be for the use of such governmental facilities, with the right of immediate access to the facilities by the City. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1440. MONUMENTS.

(a) The location and installation of survey monuments shall conform to the standards in the Subdivision Regulations. When such monuments are "tied" to the City or State monuments, for which coordinates of the California Coordinate System are available, the corresponding coordinates for such monuments shall be determined and recorded.

(b) The location of survey monuments shall be shown on the Final Map. In the event all survey monuments are not installed prior to filing of the Final Map or Parcel Map a monument bond shall be filed at that time. (Added by Ord. 329-98, App. 10/30/98)

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ARTICLE 6: IMPROVEMENT REQUIREMENTS

Sec. 1445. General.
Sec. 1446. Improvement Plans.
Sec. 1447. Construction.
Sec. 1448. Failure to Complete Improvements Within Agreed Time.
Sec. 1449. Inspection and Testing Fees.
Sec. 1449.1. Revisions to Approved Plans.
Sec. 1451. Improvement Agreement.
Sec. 1451.1. Completion of Improvements.
Sec. 1451.2. Acceptance of Improvements.

SEC. 1445. GENERAL.

(a) The subdivider shall provide for the construction and installation of all public improvements in the subdivision in accordance with the Plans and Plan Documents. The term "public improvements" shall mean all improvements required pursuant to Article 5 of this Code, the Plans and Plan Documents, and any additional improvements for the benefit of the public required as a condition of approval of a Tentative Map, consistent with the Plans and Plan Documents.

(b) The subdivider shall enter into an improvement agreement pursuant to Section 1451 whenever required public improvements have not been completed prior to the filing of the Final Map. (Added by Ord. 329- 98, App. 10/30/98)

SEC. 1446. IMPROVEMENT PLANS.

(a) Following approval of the Tentative Map and prior to filing of the Final Map, the subdivider's engineer shall submit grading and construction plans for any required public improvements to the Director for approval.

(b) Improvement plans including grading plans and an erosion control plan, as appropriate, shall be prepared under the direction of a qualified and duly licensed professional civil engineer registered in the State of California.

(c) Improvement plans shall conform to the Subdivision Regulations regarding format, size and contents.

(d) Any specifications supplementing the Standard Specifications shall be considered a part of the improvement plans.

(e) The Director shall act upon and review improvement plans within the time periods specified in Section 66456.2 of the SMA. The Director shall send a copy of the improvement plans to the Agency for its review. The Director's review of the improvement plans shall conform with the Subdivision Regulations and the Plans and Plan Documents. This time limit may be extended by mutual agreement. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1447. CONSTRUCTION.

(a) No construction of public improvements shall commence until improvement plans have been approved by the Director.

(b) Construction of public improvements which are to be accepted by the City for maintenance shall be subject to inspection by the Director. The subdivider is responsible for paying the applicable engineering inspection fee as specified in the Public Works Code.

(c) Any work done by the subdivider prior to approval of improvement plans, including changes thereto, or without the inspection and testing required by the Director is subject to rejection. Such work shall be deemed to have been done at the risk and peril of the subdivider.

(d) The design and layout of all required improvements, both on-site and off-site, private and public, shall conform to the Plans, Plan Documents, the applicable provisions of City regulations and Tentative Map conditions consistent therewith.

(e) Installation of Underground Facilities. All underground facilities including sanitary and drainage facilities and excepting survey monu-

ments installed in streets, alleys or pedestrian ways shall be constructed, by the subdivider and inspected and approved by the Director, prior to the surfacing of such street, alley or pedestrian way. Service connections for all underground utilities and sewers shall be laid to such length as will in the Director's opinion obviate disturbing the street, alley or pedestrian way improvements when service connections are completed to properties in the subdivision. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1448. FAILURE TO COMPLETE IMPROVEMENTS WITHIN AGREED TIME.

The improvement agreement shall include provisions consistent with the Plans and Plan Documents and this Code regarding extensions of time and remedies when improvements are not completed within the agreed time. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1449. INSPECTION AND TESTING FEES.

(a) The actual costs of inspecting the construction of improvements under Section 1457(b) of this Code shall be paid by the subdivider.

(b) The actual costs of testing the materials incorporated in the improvements under Section 1447(b) of this Code shall be paid by the subdivider. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1449.1. REVISION TO APPROVED PLANS.

(a) Requests by the subdivider for revisions to the approved improvement plans shall be submitted in writing to the Director and shall be accompanied by drawings showing the proposed revision. If the revision is acceptable to the Director and the Agency and consistent with the Plans, Plan Documents and Tentative Map, the Director shall initial the revised plans. Construction of any proposed revision shall not commence until revised plans have been received and approved by the Director. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1451. IMPROVEMENT AGREEMENT.

(a) General. This section shall only apply to public improvements that have not been completed or conditions that have not been fulfilled prior to filing a Parcel or Final Map. An agreement (the "improvement agreement") shall be prepared by the Director and the City Attorney, approved as to form by the City Attorney, and executed by the Director on behalf of the City. The improvement agreement shall be consistent with the Plans and Plan Documents and shall provide for:

(1) Construction of all public improvements required pursuant to the Plans, Plan Documents, this Code, the Mission Bay Subdivision Regulations, and conditions imposed on the Tentative Map consistent therewith, including any required off-site improvements, within the time specified by Section 1451.1;

(2) Satisfaction of conditions precedent to the transfer of title to the City of all land and improvements required to be dedicated to or acquired by the City, if the City elects to defer transfer of title until after the public improvements have been completed consistent with the Plans and Plan Documents, including any approved title exceptions as defined therein, which are or shall be specified herein;

(3) Payment of inspection fees in accordance with applicable City regulations, consistent with the Plans and Plan Documents;

(4) Improvement security as required by Section 1470;

(5) Maintenance and repair of any defects or failures of the required public improvements, and to the extent feasible removing their causes, prior to acceptance of the public improvements by the City;

(6) Release and indemnification of the City from all liability incurred in connection with the construction of public improvements and payment of all reasonable attorneys' fees that the City may incur because of any legal action or other proceeding arising from the construction, except release and indemnification disallowed

under the SMA or any other State or federal law pursuant to the procedures provided in the SMA;

(7) Payment by Subdivider of all costs and reasonable expenses and fees, including attorneys' fees, incurred in enforcing the obligations of the improvement agreement;

(8) Any other deposits, reimbursements, fees or conditions as required by City regulations consistent with Plans and Plan Documents and as may be required by the Director;

(9) Any other provisions required by the City as reasonably necessary to effectuate the purposes and provisions of the SMA and this Code in accordance with the Plans and Plan Documents.

(b) Any improvement agreement, contract or act required or authorized by the SMA or this Chapter for which security is required, shall be secured in accordance with Section 66499 et seq. of the SMA and Article 8 of this Division. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1451.1. COMPLETION OF IMPROVEMENTS.

(a) The public improvements for subdivisions of five or more parcels which are not otherwise required to be completed prior to recordation of a Final Map, shall be completed by the subdivider within the time specified in an improvement agreement which is consistent with the Plans and Plan Documents.

(b) The completion of public improvements for subdivisions of four or fewer parcels and for financing and conveyancing maps which are not otherwise required to be completed prior to recordation of a Parcel Map or Final Map may be deferred until a permit or other grant of approval for the development of any parcel within the subdivision is applied for, unless the completion of the public improvements is found to be necessary for public health or safety or for the orderly development of the surrounding area, in which case the improvement agreement shall specify a time for completion. If any required public improvements are not completed at the time of recordation of a Parcel Map or Final Map for four or fewer parcels, an improvement agreement is required pursuant to Section 1451. This finding shall be made by the Director, after consultation with appropriate City agencies. The specified date for completion of the public improvements, when required, shall be stated in the improvement agreement. Public improvements shall be completed in accordance with the improvement agreement.

(c) Completion dates may be extended by the Director according to the following procedures:

(1) The subdivider must request an extension in writing, stating adequate evidence to justify the extension, by letter to the Director. The request shall be made not less than 30 days prior to expiration of the improvement agreement. The Director may grant such extensions, subject to the terms of the improvement agreement.

(2) The Director may condition approval of an extension agreement upon the following:

(i) Revised improvement construction estimates to reflect current improvement costs as approved by the Director;

(ii) Increase of improvement securities in accordance with revised construction estimates;

(iii) Inspection fees may be increased to reflect current construction costs but shall not be subject to any decrease or refund; and

(iv) Conditions which the Director deems necessary to assure the timely completion of public improvements.

(3) If authorized by the Director, the subdivider shall enter into an improvement agreement extension ("extension agreement") with the City. The extension agreement shall be prepared by the Director and the City Attorney, and executed by the Director, the subdivider and surety bank or financial institution, if applicable, providing security required by the improvement agreement.

(4) The costs incurred by the City in reviewing and processing the extension agreement shall be paid by the subdivider at actual cost.

(d) Should the subdivider fail to complete the public improvements within the specified time, or correct all deficiencies within 12 months following the time specified for completion, the City may, by resolution of the Board of Supervisors and at its option, cause any or all uncompleted public improvements to be completed and all uncorrected deficiencies to be corrected, and the parties executing the security or securities shall be firmly bound for the payment of all necessary costs.

(e) As-Built Plans. Upon completion of the public improvements, the subdivider shall submit to the Director a reproducible set of as-built improvement plans. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1451.2. ACCEPTANCE OF IMPROVEMENTS.

(a) General. With respect to all subdivisions, when any deficiencies in the required public improvements have been corrected and as-built improvement plans submitted, the completed public improvements shall be considered by the Director for acceptance.

(b) Acceptance. If the public improvements have been completed to the satisfaction of the Director, the Director shall provide the Board of Supervisors with a written certificate to that effect, and the public improvements may be accepted by the Board of Supervisors, by ordinance, subject to the provisions of San Francisco Administrative Code Section 1.52. Acceptance of the improvements shall imply only that the improvements have been completed satisfactorily and that public improvements have been accepted for public use. (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 7: FINAL MAPS AND PARCEL MAPS

Sec. 1455. Time Limit for Submittal.
Sec. 1455.2. Final Maps Showing Only Portions of Tentative Map.
Sec. 1456. Final Map.
Sec. 1457. Certificates and Statements on Final Map.
Sec. 1459. Parcel Map.
Sec. 1460. Check Prints.
Sec. 1461. Map Check.
Sec. 1462. Filing.
Sec. 1463. Submittal to Board.
Sec. 1464. Recordation.
Sec. 1465. Correction and Amendments of Map.

SEC. 1455. TIME LIMIT FOR SUBMITTAL.

Within 36 months after the approval of the Tentative Map application or preliminary Parcel Map application, unless such time has been extended upon approval of the Tentative Map or pursuant to Government Code Section 66452.6, the Final Map or Parcel Map shall be filed with the Director. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1455.2. FINAL MAPS SHOWING ONLY PORTIONS OF TENTATIVE MAP.

(a) General. Multiple final maps relating to an approved or conditionally approved Tentative Map may be filed prior to the expiration of the Tentative Map if, in addition to all other requirements of this Code pertaining to Final Maps, a subdivider files a notice pursuant to Section 1422(d)(1)(vi) or, after filing of the Tentative Map, the subdivider and Director (after consulting with the Agency) concur in the filing of multiple Final Maps. A subdivider filing multiple Final Maps must obtain approval of the Director pursuant to Subsection (b) of this Section in order to obtain the certificate required by Section 1457.

(b) The Director shall approve a Final Map which is in compliance with the conditions of the Tentative Map, but which shows only a portion of the Tentative Map, unless any one of the following conditions occurs:

(1) The Director finds:

(i) That it will not be feasible from an engineering standpoint to construct the public improvements required for the areas shown on the Final Map; or

(ii) That construction of the public improvements shown in the proposed Final Map would not provide adequate access to the area shown on the Final Map unless additional street or easement dedications, or public improvements as shown on the General Plan or in the Plans or Plan Documents, are provided, or other reasonable conditions, not in conflict with the Plans, Plan Documents and City regulations, are imposed.

(2) The Director, or in the event of a hearing by the Agency pursuant to Subsection (d) below, the Agency finds that development of the uses authorized within the Final Map area at that time would not promote orderly development consistent with the General Plan, Plans and Plan Documents unless additional street or easement dedications, or public improvements as shown on the Tentative Map are provided, or other reasonable conditions, not in conflict with the Plans, Plan Documents and the City regulations, are imposed.

(c) The Director shall make a determination pursuant to Subsection (b) within 40 days following submittal of the Final Map or Parcel Map.

(d) If the Director refuses to approve for recording a Final Map showing only a portion of a Tentative Map, the Director shall provide the applicant with written findings in support of the determination. The Director's refusal to approve a phased Final Map may be appealed to the

Agency, and then, if necessary, to the Board, for a determination of whether the Phased Final Map is consistent with the SMA, the Tentative Map, the Plans and Plan Documents, provided, however, that any decision by the Agency regarding consistency with the Plans shall be final. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1456. FINAL MAP.

(a) The Final Map shall consist of the title sheets and map sheets.

(b) The title sheets shall contain the following data:

(1) The title, consisting of the name of the subdivision and the location;

(2) A general description of all the property being subdivided by references to recorded deeds or to recorded maps;

(3) Certificates, affidavits and acknowledgements; and

(4) General information including a key map when there is more than one map sheet.

(c) The map sheets shall contain the following data, in sufficient detail so that the sale, transfer and description of real property may be accomplished by reference to the Final Map and that all public improvements, properties and easements may be determined as to location, extent and condition:

(1) Title;

(2) Explanatory and description notes; and

(3) Map.

(d) The Final Map shall conform to the requirements of Chapter 2, Article 2 of SMA and to the Subdivision Regulations regarding detailed format and contents. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1457. CERTIFICATES AND STATEMENTS ON FINAL MAP.

(a) In addition to the certificates required by SMA, the following certificates shall be on the Final Map.

(1) City Attorney's certificate;

(2) Advisory Agency's certificate;

(3) Certificate of Improvement Agreement. Whenever the conditional approval of the application packet includes conditions which are to be met after the recordation of the Final Map, a certificate signed by the Director evidencing that an improvement agreement has been entered into between the subdivider and the City shall be required; and

(4) Certificate of Approval of Multiple Final Maps. Where the Final Map shows only a portion of the Tentative Map, then a certificate signed by the Director pursuant to Section 1455.2 shall be required.

(b) The Director may require other notes, restrictions, references or requirements to be indicated on a Final Map. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1459. PARCEL MAP.

(a) The requirements of Subsection (c) of Section 1456 of this Code shall apply to Parcel Maps.

(b) The Parcel Map shall conform to the requirements of Chapter 2, Article 3 of SMA and to the Subdivision Regulations regarding detailed format and contents.

(c) The Director may require other notes, restrictions, references or requirements to be indicated on a Parcel Map. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1460. CHECK PRINTS.

Prior to filing of the Final Map or Parcel Map, the subdivider shall submit to the Director:

(1) Prints of the Final Map sheets or the Parcel Map sheets;

(2) A preliminary title report;

(3) Traverse sheets, showing the mathematical closure of the exterior boundaries around the subdivision, of each lot boundary in the subdivision, and of boundaries of easements and of dedicated rights-of- way. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1461. MAP CHECK.

(a) The Director shall check the prints of the Final Map or the Parcel Map to determine if it substantially conforms to the approved Tentative Map, this Code and SMA.

(b) Within 14 days after submittal, the Director shall return a set of the submitted prints, noting therein any required corrections, to the subdivider's engineer. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1462. FILING.

(a) After the check prints have been approved by the Director, the subdivider shall file with the Director:

(1) The Final Map or Parcel Map, corrected to its final form, together with the copies specified in the Subdivision Regulations;

(2) The bonds or other security and approved improvement agreement;

(3) When applicable, deeds conveying all streets in the subdivision to the City and deeds granting easements for sewers, drains and pedestrian walkways which are not dedicated on the map;

(4) Evidence of title;

(5) The recording fee and evidence that all fees required by this Code have been paid; and

(6) The corrected Preliminary Soil Report, when required. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1463. SUBMITTAL TO BOARD.

(a) After obtaining the required certificates on the Final Map, or on the Parcel Map when dedications are included therein, the Director shall submit said map and the other documents to the Director.

(b) After determining that all requirements of SMA and this Code have been met, the Director shall endorse the map and file the same, together with the other documents, with the Clerk. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1464. RECORDATION.

(a) After approval of a Final Map or Parcel Map by the Board, the Clerk shall file said map with the Recorder.

(b) After signing a Parcel Map, when no dedications are included therein, the Director shall file said map with the Recorder.

(c) No Final Map or Parcel Map for a subdivision governed by this Code shall be recorded unless said Map has been approved by the Director or by the Board as required herein. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1465. CORRECTION AND AMENDMENTS OF MAP.

(a) **Requirements.** After a Final or Parcel Map is recorded in the office of the Recorder, it may be amended administratively, without public hearing, by a Certificate of Correction as to Subparagraphs (1) to (6) below, and by an amending map and public hearing as to Subparagraph (7) below:

(1) To correct an error in any course or distance shown thereon;

(2) To show any course or distance that was omitted therefrom;

(3) To correct an error in the description of the real property shown on the map;

(4) To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor charged with responsibility for setting monuments;

(5) To show the proper location or character of any monument which has been changed in location or character, or originally was shown at the wrong location or incorrectly as to its character;

(6) To correct any other type of map error or omission as approved by the Director, which does not affect any property right. Errors and omissions may include, but not be limited to, lots and numbers, acreage, street names and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the Final or Parcel Map;

(7) To make modifications when there are changes which make any or all of the conditions of the Map no longer appropriate or necessary and when the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded map, and the Director finds that the map as modified conforms to the provisions of Section 66474 of the SMA. Such modification shall require an amending map and shall be set for public hearing by the Director according to the procedures established for a hearing on the Tentative Map. The Director shall confine the hearing to consideration of, and action on, the proposed modification.

(b) **Form and Contents.** The amending map or certificate of correction shall be prepared and stamped by a registered civil engineer or licensed land surveyor. The form and contents of the amending map shall conform to the requirements for a Final Map, or a Parcel Map as provided in this Code and the SMA. The certificate of corrections shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

(c) **Submittal and Approval by Director.** The amending map or certificate of correction, complete as to final form, shall be submitted to the Director for review and approval. The Director shall examine the amending map or certificate of correction, and if the only changes made are those in Subsection (a), this fact shall be certified on the amending map or certificate of correction.

(d) **Filing with Recorder.** The amending map or certificate of correction certified by the Director shall be filed in the office of the Recorder in which the original map was filed. Upon such filing, the Recorder shall index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index respectively. The original map shall be deemed to have been conclusively so corrected, and shall impart constructive notice of all the corrections in the same manner as though upon the original map.

(e) **Fee.** The fee for checking, processing and recording the amended map or certificate of correction shall be as provided in Section 1415. (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 8: SECURITY, BONDS, TAXES

Sec. 1470. Security for Improvements.
Sec. 1471. Monument Bonds.
Sec. 1472. Payment of Taxes and Liens.

SEC. 1470. SECURITY FOR IMPROVEMENTS.

(a) The requirements of this Section apply to all improvement agreements.

(b) No Final Map or Parcel Map shall be signed by the Director or recorded until all improvement securities required by this Article in the form prescribed by the City pursuant to Government Code Section 66499 et seq., have been received and approved.

(c) A performance bond or other acceptable security as provided in Section 66499 of the Government Code in the amount of 100 percent of the estimated cost of completion of the construction, as determined by the Director, or installation of all public improvements, as determined by the Director, shall be required of all subdivisions to secure satisfactory performance of those obligations. As a guarantee of payment for the labor, materials, equipment and services required, a payment bond or other acceptable security shall be required for 50 percent of the estimated cost of completion of unfinished public improvements as determined by the Director. For purposes of the preceding sentences, the "estimated cost of completion" shall include all costs of remediating any hazardous materials as necessary to permit completion of the required public improvements, unless those costs are otherwise secured as provided in the Plans and Plan Documents.

(d) The security shall be released or reduced upon completion of construction as follows:

(1) The security shall be reduced to 10 percent of the original amount for the purpose of guaranteeing repair of any defect in the improvements which occurs within one year of when: (i) the public improvements have been completed to the satisfaction of the Director; and (ii) the Clerk of the Board of Supervisors certifies that no claims by any contractor, subcontractor or person furnishing labor, materials or equipment for the required public improvements have been filed against the City prior to or within a 100-day period following completion of the public improvements.

(2) If any claims by any contractor, subcontractor or person furnishing labor, materials or equipment to the subdivider have been filed against the City, then the performance security shall only be reduced to an amount equal to the amount of all such claims filed or to 10 percent of the original amount whichever is greater.

(3) The security may be reduced in conjunction with completion of a portion of the public improvements to the satisfaction of the Director, to an amount determined by the Director; however, in no event shall the amount of the security be reduced below the greater of (i) the amount required to guarantee the completion of the remaining portion of public improvements and any other obligation imposed by the SMA, this Code or the improvement agreement; or (ii) below 10 percent of the original amount of the security.

(4) The security shall be released when all of the following have occurred:

(i) One year has passed since the date of acceptance by the Board of Supervisors, or one year has passed since the date that all deficiencies which the Director identifies in the required public improvements have been corrected or waived in writing; and

(ii) If any claims identified in Subsection (d)(1)(ii) have been filed against the City, all such claims have been satisfied or withdrawn, or otherwise secured. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1471. MONUMENT BONDS.

As a guarantee of good faith to furnish and install the required survey monuments and to pay the subdivider's engineer or surveyor for said work, the subdivider shall furnish a corporate surety bond or other acceptable security for an amount equal to 100 percent of the estimated cost of such work. Such work shall consist of satisfactorily furnishing and installing the said survey monuments and of accurately fixing exact survey points thereon. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1472. PAYMENT OF TAXES AND LIENS.

Prior to recordation of a Final Map or Parcel Map, the subdivider shall comply with all applicable provisions governing taxes and assessments as set forth in Sections 66492, 66493 and 66494 of the SMA and any amendments thereto. (Added by Ord. 329-98, App. 10/30/98)

ARTICLE 9: [RESERVED]

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ARTICLE 10: CONSISTENCY WITH STATE LAW

Sec. 1498. Subdivision Map Act Provisions.

SEC. 1498. SUBDIVISION MAP ACT PROVISIONS.

If any Article, Section, subsection, paragraph, sentence, clause, or provision of this Code is ruled invalid due to an inconsistency with provisions of the Subdivision Map Act of the State of California as a result of passage of any Senate or Assembly bills amending said Act, such said Article, Section, subsection, paragraph, sentence, clause, or provision shall be deemed to have been amended to comply with said Act. Notwithstanding the above, such amendment or amendments shall not in any way invalidate or change any other portion of this Code except as required by law. (Added by Ord. 329-98, App. 10/30/98)

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ARTICLE 11: REVERSION TO ACREAGE

Sec. 1500. General.
Sec. 1501. Initiation of Proceedings.
Sec. 1502. Contents of Petition.
Sec. 1503. Submittal of Petition to the Director.
Sec. 1504. Board of Supervisors Approval.
Sec. 1505. Filing with County Recorder.

SEC. 1500. GENERAL.

Subdivided property may be reverted to acreage pursuant to the provisions of the SMA and this Article. This Article shall apply to Final Maps and Parcel Maps. Subdivisions may also be merged and resubdivided without reverting to acreage pursuant to Section 66499.20 1/2 of the Subdivision Map Act and this Chapter. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1501. INITIATION OF PROCEEDINGS.

(a) Proceedings to revert subdivided property to acreage may be initiated by the Board or by petition of all of the owners of record of the property. The petition shall be in a form prescribed by the Director. The petition shall contain the information required by Section 1502 and any other information as required by the Director.

(b) The Board of Supervisors, at the request of any person or on its own motion may, by resolution, initiate proceedings to revert property to acreage. The Board shall request the Department to obtain the necessary information to initiate and conduct the proceedings. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1502. CONTENTS OF PETITION.

The petition shall contain, but not be limited to, the following:

(a) Evidence of title to the real property;

(b) Evidence of the consent of all of the owners of an interest in the property;

(c) Evidence that none of the improvements required to be made have been made within two years after the date the Final or Parcel Map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later;

(d) Evidence that no lots shown on the Final or Parcel Map have been sold within five years after the date such Final or Parcel Map was filed for record;

(e) A Final or Parcel Map in the form, and with the contents, prescribed by Sections 1455 through 1464 which delineate dedications which will not be vacated and dedications required as a condition to reversion. Final or Parcel Maps shall be conspicuously designated with the title, "The Purpose of this Map is a Reversion to Acreage";

(f) Fees and/or deposits in accordance with Section 1415;

(g) Any other information required by the SMA or necessary to make the findings required by the SMA. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1503. SUBMITTAL OF PETITION TO THE DIRECTOR.

The Final or Parcel Map for the reversion, together with all other data as required by this Article, shall be submitted to the Director for review.

Upon finding that the petition meets with all the requirements of the SMA or this Chapter, the Director shall submit the Final or Parcel Map, together with a report and recommendations of approval or conditional approval of the reversion to acreage, to the Board of Supervisors for its consideration. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1504. BOARD OF SUPERVISORS APPROVAL.

A public hearing shall be held by the Board of Supervisors on all proposed reversions to acre-

age. Notice of the public hearing shall be given by the Director as provided in this Code. The Director may give such other notice that the Director deems necessary or advisable.

The Board of Supervisors may approve a reversion to acreage only if it finds and records by resolution that:

(a) Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and

(b) Either:

(1) All owners of an interest in the real property within the subdivision have consented to reversion; or

(2) None of the public improvements required to be made have been made within two years from the date the Final or Parcel Map was filed for record, or within the time allowed by agreement for completion of the public improvements, whichever is later; or

(3) No lots shown on the Final or Parcel Map have been sold within five years from the date such map was filed for record.

The Board of Supervisors may require as conditions of the reversion:

(c) That the owners dedicate or offer to dedicate streets, public rights-of-way or easements;

(d) Such other conditions of reversion as are necessary to accomplish the purposes or provisions of the Subdivision Map Act or this Chapter or necessary to protect the public health, safety or welfare. (Added by Ord. 329-98, App. 10/30/98)

SEC. 1505. FILING WITH COUNTY RECORDER.

Upon approval of the reversion to acreage, the Clerk of the Board of Supervisors shall transmit the Final or Parcel Map, together with the Board of Supervisors resolution approving the reversion, to the Recorder for recordation. Reversion shall be effective upon the Final Map being filed for record by the Recorder. Upon filing, all dedications and offers of dedication not shown on the Final or Parcel Map for reversion shall be of no further force and effect. (Added by Ord. 329-98, App. 10/30/98)

DIVISION 3: HUNTERS POINT SHIPYARD SUBDIVISION CODE

ARTICLE 1: GENERAL PROVISIONS

Sec. 1600. Title.
Sec. 1601. Authority and Mandate.
Sec. 1602. Purposes.
Sec. 1603. Scope.
Sec. 1604. Enforcement.
Sec. 1604.1. Certificate of Compliance.
Sec. 1605. Severability.

SEC. 1600. TITLE.

This Chapter shall be known as the "Subdivision Code of the City and County of San Francisco for the Hunters Point Shipyard Project Area" (hereinafter referred to as this "Code") and applies only to the areas designated as the Hunters Point Shipyard Redevelopment Project Area (hereinafter referred to as the "Hunters Point Shipyard Project Area"). (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1601. AUTHORITY AND MANDATE.

(a) This Code is adopted pursuant to the Subdivision Map Act of California, Title 7, Division 2 of the Government Code, commencing with Section 66410 (hereinafter referred to as "SMA").

(b) Any amendments to SMA, adopted subsequent to the effective date of this Code, shall not invalidate any provisions of this Code. Any amendments to SMA that map be inconsistent with this Code shall govern.

(c) Subject to the procedures and requirements for development in the Hunters Point Shipyard Project Area set forth in the Plan and Plan Documents, as defined herein, this Code shall govern in relation to all other City regulations to the extent such regulations are inconsistent. Except as required by the SMA, in the event of any inconsistency or conflict between the provisions of this Code and the Plan, the Plan and Plan Documents shall control. All applications for Tentative Maps, Vesting Tentative Maps, Parcel Maps and Final Maps shall be consistent with the Plan and Plan Documents.

(d) This Code and the regulations adopted pursuant to this Code shall apply to all subdivisions hereafter made entirely or partially within the Hunters Point Shipyard Project Area. This Code shall be effective until the termination of the Plan, including any modifications or extensions thereof. Upon termination all the subdivisions in the Hunters Point Shipyard Project Area shall be governed by the San Francisco Subdivision Code and applicable regulations unless otherwise specified. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1602. PURPOSES.

(a) This Code is enacted to establish procedures and requirements for the control and approval of subdivision development within the Hunters Point Shipyard Project Area of the City and County of San Francisco in accordance with SMA and the Plan and Plan Documents.

(b) This Code is enacted to accomplish the following purposes in accordance with the procedures and requirements or the control and approval of development of the Project Area as set forth in the Plan and Plan Documents:

(1) To provide policies, standards, requirements, and procedures to regulate and control the design and improvement of all subdivisions within the Hunters Point Shipyard Project Area, and to ensure that all subdivisions are built to City standards consistent with the Plan and Plan Documents;

(2) To assist in implementing the objectives, policies, and programs of the General Plan by ensuring that all proposed subdivisions, together with the provisions for their design and improvement, are consistent with the General Plan of the City;

(3) To preserve and protect, to the maximum extent possible, the unique and valuable natural resources and amenities of the City's environment, including topographic and geologic features, open space lands, waterfront recreational areas, fish and wildlife habitats, historical and cultural places, and scenic vistas and attractions; and, to maximize the public's access to and enjoyment of such resources and amenities through the dedication or continuance of applicable easements thereto;

(4) To relate land use intensity and population density to existing development, street capacity and traffic access, the slope of the natural terrain, and the availability of public facilities and utilities and open space;

(5) To provide lots of sufficient size and appropriate design for the purposes for which they are to be used;

(6) To provide streets of adequate capacity and design for anticipated uses and to ensure maximum safety for pedestrians and vehicles;

(7) To ensure adequate access to each building parcel;

(8) To provide sidewalks, and where needed, pedestrian ways, hiking paths, and jogging trails for the safety, convenience, and enjoyment of the residents of new developments;

(9) To provide adequate systems of water supply, sanitary sewage disposal, storm drainage, street lighting, and other utilities needed for the public health, safety and convenience;

(10) To provide adequate sites for public facilities needed to serve the residents of new developments;

(11) To ensure that land is subdivided in a manner that will promote the public health, safety, convenience, and general welfare in conformance with the General Plan and the Hunters Point Shipyard Redevelopment Plan. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1603. SCOPE.

(a) This Code supplements SMA, prescribing rules, regulations and procedures authorized therein.

(b) The necessity for Tentative Maps, Final Maps and Parcel Maps shall be governed by this Section and SMA.

(c) For subdivisions creating five or more parcels or units, a Tentative Map and a Final Map shall be required pursuant to this Code and SMA.

(1) A Tentative Map and a Final Map shall be required for all such subdivisions except those coming within the exceptions set forth in Section 66426 of SMA.

(2) A Tentative Map and a Parcel Map shall be required for all subdivisions coming within the exceptions set forth in Section 66426 of SMA.

(d) For subdivisions creating fewer than five parcels or units, no Tentative Map shall be required except as provided in Section 1633.1(a) for Vesting Tentative Maps and except where the Director deems a Tentative Map would be appropriate and the applicable City regulations for the subject property would permit development at a density such that the subject property, or any portion thereof, may be resubdivided in a manner which would ultimately permit five or more parcels on the subject property. In all other subdivisions creating fewer than five parcels or units, a Parcel Map containing the information specified by Section 1659 of this Code and SMA shall be required. Said Parcel Map shall be filed with the Director and recorded according to the procedure set forth in Sections 1660 through 1664 of this Code.

(e) No Tentative Map, Final Map, or Parcel Map shall be required for those specific types of subdivision exempted by Sections 66412 and 66428 of SMA; provided, however, that with respect to subdivisions described in Subsection (h) of Section 66412 of the SMA, certification pursuant to the provisions of Section 1397 must be obtained.

(f) The Director may waive the requirement of a Parcel Map for any improved or unimproved land shown on the latest equalized County assessment roll as contiguous units or parcels where the units or parcels have been subdivided legally and comply with the requirements as to lot width and area, improvement and design,

floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection.

(g) Nothing herein shall preclude the approval and filing of Subdivision Maps for purposes of financing and conveyancing only as provided in Section 1612.1 herein. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1604. ENFORCEMENT.

(a) It is unlawful for any person, firm, corporation, partnership or association to offer or contract to sell, lease, finance, or construct any building for sale, lease or financing on any parcel or parcels of real property for which a Final Map or a Parcel Map is required unless and until a Final Map or Parcel Map in full compliance with the provisions of this Code and SMA, has been duly recorded in the office of the Recorder. This Section does not prohibit an offer or contract to sell, lease, or finance any parcel or parcels of real property where the sale, lease or financing is expressly conditioned upon the filing, approval and recordation of a Final or Parcel Map, where the SMA otherwise allows an offer or contract to sell, lease, or finance, or where the SMA is inapplicable.

(b) All departments, officials and public employees of the City, City agencies or the agency vested with the duty or authority to approve or issue permits, shall act consistent with the provisions of this code, the Plan, and the Plan Documents and shall neither approve nor issue any permit or license for use, construction, or purpose in conflict with the provisions of this Code, the Plan and the Plan Documents. Any such permit or license issued in conflict with the provisions of this Code, Plan and the Plan Documents shall be null and void. No conditions shall be imposed on or in connection with Tentative Maps, Vesting Tentative Maps, Parcel Maps or Final Maps, including improvements plans and improvement agreements, that conflict with the Plan and Plan Documents.

(c) Any Subdivider, agent of a Subdivider, successor in interest of a Subdivider, tenant, purchaser, builder, contractor or other person who violates any of the provisions of this Code or any conditions imposed pursuant to this Code, or who knowingly submits incorrect information to endeavor to mislead or misdirect efforts by City agencies in the administration of this Code, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding $2,000 or be imprisoned for a period not exceeding six months or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(d) The Director shall have the authority to enforce this Code against violations thereof in accordance with Chapter 7, Sections 66499.30 et seq. of the SMA. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this Code or the SMA if it finds that development of the real property is contrary to the public health, safety or welfare. The authority to deny a permit or approval shall apply whether the applicant was the owner of the real property at the time of the violation or whether the applicant is the current owner of the real property, with or without actual or constructive knowledge of the violation at the time of the acquisition of interest in the real property. Whenever the City has knowledge that property has been divided in violation of the provisions of the SMA or this Code, the Director shall process a notice of violation and meet and confer with the owner pursuant to SMA Section 66499.36. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1604.1. CERTIFICATE OF COMPLIANCE.

(a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property, may request the Director to determine whether the real property com-

plies with the provisions of this Chapter and the SMA. The Director shall forward the request to the City Attorney for review.

(b) Upon making a determination of compliance, the Director shall, in accordance with Section 66499.35 of the SMA, cause a certificate or conditional certificate of compliance to be filed for record with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division of land complies with applicable provisions of the City regulations and the SMA.

(c) A recorded Final or Parcel Map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(d) If the Director determines that the real property does not comply with the provisions of this Code or the SMA the Director shall issue a conditional certificate of compliance. In issuing a conditional certificate of compliance the Director may impose such conditions (including but not limited to filing an application for a corrected Tentative, Final or Parcel Map) as would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at such time by this Code or the SMA. Where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who by a grant of real property created a parcel or parcels in violation of this Code or the SMA, and that person is the current owner of record of one or more of the parcels which were created as a result of the grant on violation of this Code or the SMA, then the Director may impose any conditions which would have been applicable to a current division of the property. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1605. SEVERABILITY.

(a) If any Article, Section, subsection, paragraph, sentence, clause or phrase of this Code, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, or other competent agency, such decisions shall not affect the validity or effectiveness of the remaining portions of this Code or any part thereof. The Board of Supervisors hereby declares that it would have passed each Article, Section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more Articles, Sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

(b) If the application of any provision or provisions of this Code to any person, property or circumstances is found to be unconstitutional, invalid or ineffective in whole or in part by any court of competent jurisdiction, or other competent agency, the effect of such decision shall be limited to the person, property or circumstances immediately involved in the controversy and the application of any such provisions to other persons, properties and circumstances shall not be affected.

(c) This Section shall apply to this Code as it now exists and as it may exist in the future, including all modifications thereof and additions and amendments thereto. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

ARTICLE 2: DEFINITIONS

Sec. 1606. General.
Sec. 1607. Government Agencies and Redevelopment Plan.
Sec. 1609. Terminology.

SEC. 1606. GENERAL.

Officials and agencies referred to in this Code and in SMA are officials and agencies of the City and County of San Francisco and the Agency, unless the contrary is either stated or implied. Capitalized terms unless separately defined in this Code have the meanings and content set forth in the Plan and Plan Documents. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1607. GOVERNMENT AGENCIES AND REDEVELOPMENT PLAN.

(a) "Advisory Agency" means the Director of the City Department of Public Works.

(b) "Agency" means the Redevelopment Agency of the City and County of San Francisco.

(c) "Agency Housing Parcels" means the parcels to be retained by the Agency as designated in the Disposition and Development Agreement for Hunters Point Phase I.

(d) "Agency Parcels" means, collectively, the Agency Housing Parcels, Community Facility Parcels and Open Space, as defined herein.

(e) "Bureau of Engineering" means the City Bureau of Engineering of the Department of Public Works.

(f) "City" means the City and County of San Francisco.

(g) "City agencies" means the City and, where appropriate, all city departments, agencies, boards, commissions, and bureaus with subdivision or other permit, entitlement, review or approval authority or jurisdiction over any major phase or project in the Hunters Point Shipyard Project Area or any portion thereof.

(h) "City regulations" shall mean (i) those City land use codes, including without limitation its Building Code, Fire Code, Planning Code (to the extent applicable in accordance with the Hunters Point Shipyard Redevelopment Plan Design for Development), Public Works Code, Subdivision Code, Health Code, Environment Code and General Plan; (ii) those ordinances, rules, regulations and official policies adopted thereunder, and (iii) all those ordinances, rules, regulations, official policies and plans governing zoning, subdivisions and subdivision design, land use, rate of development, density, building size, public improvements and dedications, construction standards, new construction and use, design standards, permit restrictions, development fees or exactions, terms and conditions of occupancy, or environmental guidelines or review, including those relating to hazardous substances, pertaining to the Hunters Point Redevelopment Plan Area, as adopted and amended by the City from time to time.

(i) "Clerk" means the Clerk of the Board of Supervisors for the City.

(j) "Community Facility Parcels" means the parcels retained by the Agency and designated for ultimate disposition for community development or community facilities, as designated in the Disposition and Development Agreement for Hunters Point Phase I, and as may be designated in subsequent disposition and development agreements.

(k) "County," "City," "City and County," "Municipality" and "Local Agency" mean the City and County of San Francisco.

(l) "County Surveyor," "County Engineer" and "City Engineer" mean the Director and his staff.

(m) "Department of Building Inspection" and "DBI" mean the City Department of Building Inspection.

(n) "Department of Public Works" means the City Department of Public Works.

(o) "Director" means the Director of the City Department of Public Works.

(p) "Governing Body," "Legislative Body" and "Board" mean the City Board of Supervisors.

(q) "Government agencies" means State, federal, regional or local governmental agencies, other than City agencies, having or claiming jurisdiction over all or portions of the Hunters Point Shipyard Project Area or aspects of its development.

(r) "Open Space" means the parcels retained by the Agency and designated for public recreation and other open space uses, as designated in the Disposition and Development Agreement for Hunters Point Phase I, and as may be designated in subsequent disposition and development agreements.

(s) "Plan Documents" means the Plan and its implementing documents, including without limitation, the City Regulations, this Code and the Subdivision Regulations adopted hereunder, disposition and development agreements, owner participation agreements, and the design for development.

(t) "Plan" means the Redevelopment Plan for Hunters Point Shipyard.

(u) "Planning Department" means the City Department of Planning.

(v) "Planning Director" shall mean the City Director of Planning.

(w) "Project Area" or "Hunters Point Shipyard Project Area" includes all of the Plan Area as described in the Hunters Point Shipyard Redevelopment Plan.

(x) "Subdivider" or "applicant" shall mean the owner of real property, or the owner's authorized agent or representative, who applies for, or obtains, approval to subdivide such real property.

(y) "Subdivision" shall mean, in accordance with Government Code Section 66424 and subject to the exclusions described in the SMA, including Government Code Section 66412, the division of any improved or unimproved land, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way. Subdivision includes a condominium project, as defined in Section 1351(f) of the California Civil Code or a community apartment project, as defined in Section 1351(d) of the California Civil Code. Any conveyance of land to a governmental agency, public entity, public utility or subsidiary of a public utility for rights-of-way shall not be considered a division of land for purposes of computing the number of lots. Subdivision does not include a lot line adjustment. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1609. TERMINOLOGY.

(a) "Application packet" shall mean the Tentative Map together with all documents, statements and other materials that are required as attachments thereto.

(b) "Final Map" shall mean a map prepared in accordance with Chapter 2, Article 2 of SMA and this Code, which map is designed to be placed on record in the office of the Recorder.

(c) "Improvement plan" shall mean an engineering plan or a set of engineering plans showing the location and construction details of improvements.

(d) "Parcel Map" shall mean a map prepared in accordance with Chapter 2, Article 3 of SMA and this Code, which map is designed to be placed on record in the office of the Recorder.

(e) "Soil engineer" shall mean a qualified and duly licensed engineer, experienced in engineering geology, responsible for the soil engineering work outlined in this Code, including supervision, analysis and interpretation of field investigation and laboratory tests for a specific project; preparation of geological and soil engineering recommendations and specifications; and supervision of grading construction work.

(f) "Standard Specifications" shall mean the 1986 Standard Plans and 1987 Standard Specifications of the Department of Public Works, Bureau of Engineering, including any modifications thereof as set forth in the Subdivision Regulations.

(g) "Tentative Map" shall mean a map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it; such a map need not be based upon an accurate or detailed final survey of the property.

(h) "Vesting Tentative Map" shall mean a tentative map which has been filed, processed and approved in accordance with the Vesting Tentative Map Statute, Government Code Section 66498.1 et seq., and this Code and which shall have at the time of filing printed conspicuously on its face the words "Vesting Tentative Map." (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

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ARTICLE 3: GENERAL PROCEDURAL PROVISIONS

Sec. 1610. Advisory Agency.
Sec. 1611. Subdivision Regulations.
Sec. 1612. Exceptions.
Sec. 1612.1. Conveyancing or Finance Maps.
Sec. 1612.2. Lot Line Adjustments.
Sec. 1613. Notice and Hearing.
Sec. 1614. Appeals.
Sec. 1615. Fees.

SEC. 1610. ADVISORY AGENCY.

(a) The Director is hereby continued as the Advisory Agency for all purposes hereunder and under the SMA.

(b) All maps, plans and reports required by this Code shall be filed with the Director. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1611. SUBDIVISION REGULATIONS.

(a) The Director, with the assistance of other City Agencies, shall prepare and publish the Hunters Point Shipyard Subdivision Regulations ("Subdivision Regulations") needed to implement and supplement this Code in accordance with the SMA, this Code, and the Plan.

(b) Such Regulations shall be adopted or amended by the Director after holding a public hearing. Prior to the decision of the Director to amend or adopt the Subdivision Regulations, the Agency shall find such regulations consistent with the Plan. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1612. EXCEPTIONS.

(a) Upon written application by the Subdivider, the Director, subject to the SMA, may authorize exceptions, waivers or deferrals to any of the requirements set forth in this Code and in the Subdivision Regulations.

(b) Before granting any such exception, waiver, or deferral, in whole or in part, the Director must find:

(1) That the application of certain provisions of this Code or the Subdivision Regulations would result in practical difficulties or unnecessary hardships affecting the property inconsistent with the general purpose and intent of the Plan and Plan Documents;

(2) That the granting of the exception, waiver, or deferral will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated; and

(3) That the granting of such exception, waiver, or deferral will not be contrary to the Plan.

(c) In granting any such exception, waiver, or deferral, the Director shall designate the conditions under which the exception is granted.

(d) The Director shall not grant any exceptions in violation of the SMA.

(e) The standards and requirements of this Code and the Subdivision Regulations shall, where necessary, be modified by the Director where the Director finds such modifications are necessary to assure conformity to and achievement of the standards and goals of the Plan.

(f) If the Director elects to hold a public hearing with respect to an application for exception, waiver, or deferral, the Director shall give notice not less than 10 days and no more than 15 days prior to the hearing date as provided in Subsection (A) of Section 1613. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1612.1. CONVEYANCING OR FINANCE MAPS.

Subdivider may file Subdivision or Parcel Maps for purposes of financing and conveyancing only (hereinafter referred to as a "Transfer Map").

(a) When Subdivider submits a Tentative Map or Parcel Map application for a Transfer Map, the proposed map shall have printed conspicuously on its face "FOR PURPOSES OF FINANCING AND CONVEYANCING ONLY."

(b) A Transfer Map shall not be subject to any requirement or condition for the provision of any infrastructure, as such infrastructure may be described in the Plan and Plan Documents, that will be provided in connection with subsequent or concurrent City permits, subdivision or parcel maps and improvement plans. An improvement agreement shall not be required in connection with a Transfer Map.

(c) The Final or Parcel Map for a Transfer Map shall contain notes, restrictions, references or conditions as approved by the City, which may, among other things, prohibit development on the parcels absent compliance with the Plan and Plan Documents, and all other applicable City regulations.

(d) No Transfer Map may be approved without Agency approval.

(e) Approval of a Transfer Map shall not be deemed to permit any development of, or construction on, a parcel.

(f) The Director may waive certain submittal requirements for Tentative Maps for a Transfer Map application in accordance with Section 1622(c) hereof. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1612.2. LOT LINE ADJUSTMENTS.

"Lot line adjustment" shall have the meaning as described in Government Code Section 66412. Applications for lot line adjustments shall be considered by the Director consistent with the provisions of Government Code Section 66412. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1613. NOTICE AND HEARING.

(a) The Director shall give notice in the following manner for each application for a Tentative Map or for a Parcel Map for which a Tentative Map is not required and an application for an exception, waiver, or deferral filed pursuant to Section 1612 if the Director elects to hold a hearing under Section 1612(f).

(1) Notice of the Director's receipt of an application shall be published in at least one newspaper of general circulation within the City and County of San Francisco.

(2) Notice of the Director's receipt of the application shall be mailed or delivered to each local agency expected to provide or approve water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the Director's receipt of the application shall be mailed or delivered to any person who has filed a written request for notice with the Director's office.

(b) If the Director is required or elects to hold a public hearing with respect to an application, he or she shall give notice not less than 10 days prior to the hearing date as provided in Subsection (A) of this Section, including providing notice to any person that requested a hearing. No public hearing shall be held until after government agencies and City agencies comments are received or the time period for receiving such comments has run, whichever occurs first, and the Director has provided a written report in accordance with Section 1629.

(c) All applications for a Tentative Map, or for a Parcel Map for which a Tentative Map is not required, shall include, in addition to all other information required:

(1) A list of the names, assessor's lot and block numbers and mailing addresses of all those shown in the last equalized assessment roll as owning property within 300 feet of the property proposed to be subdivided.

(2) A 300-foot radius map delineating all the properties described in Subsection (c)(1).

(3) One set of stamped envelopes preaddressed to each of the listed property owners, suitable for mailing notice of any hearing or appeal thereon. Blank Department of Public Works envelopes will be furnished to a proposed Subdivider on request. Unused envelopes will be returned to the proposed Subdivider on request.

(d) Any Department hearing required or permitted by this Code may, at the discretion of the Director, be held jointly with the Department of Planning. The provisions of this Section shall be superseded by those of any amendment to California Government Code Sections 65090 or 65091, or by any provision of the SMA, should the amended provisions require additional notice.

(e) Applications for Tentative and Parcel Maps shall be processed in compliance with the Plan, Plan Document, and California Government Code Sections 65920 to 65963.1 and any applicable Government Code Section amendments. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1614. APPEALS.

(a) The proposed Subdivider, or any person, may appeal to the Board from a final decision of the Director approving, conditionally approving, or disapproving a Tentative Map, or a Parcel Map for which a Tentative Map is not required. Any such appeal must be filed in writing with the Clerk of the Board within 10 days of the date of the decision appealed, and must be accompanied by the fee specified in this Code.

(b) The Director shall mail or deliver to the proposed Subdivider, and any person who owns property within 300 feet of a proposed subdivision, notice of: (1) his or her decision, and the findings in support of such decision, on any Tentative Map, or Parcel Map for which a Tentative Map is not required, and of any conditions which may have been incorporated in a conditional approval; (2) the right to appeal the Director's decision; and (3) the availability for examination of the Director's report.

(c) With respect to appeals under this Section, the Board shall schedule a hearing on the appeal to be held within 30 days after the appeal has been filed, and shall give notice as provided in Sections 1613(a)(1) and 1613(a)(2), and to the persons entitled to notice of the Director's decision under Section 1614(b). (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1615. FEES.

(a) Fees, payable to the Department of Public Works, shall be charged for checking and processing all maps, plans and reports, including all condominium maps and Parcel Maps, filed under this Code. Said fees shall consist of an initial payment in accordance with the estimated actual cost of checking the maps, plans and reports, together with investigations incidental thereto, and shall be paid before or at the time of filing a Tentative Map or a Parcel Map. Where initial payment is insufficient to compensate the actual cost incurred, an additional sum shall be charged to equal such actual cost. Fees for Parcel Maps, excepting condominium maps, which do no require the filing of a Tentative Map, and which do not involve street dedications or improvements, and for parcel map waivers shall be charged for checking and for processing in accordance with the City's Subdivision Code of general applicability. All such fees for Parcel Maps shall be paid at time of filing. Fees based on the actual cost of processing shall be charged to (1) the person requesting a certificate of compliance for processing and making a determination on the request, (2) the owner of the property who files a petition for initiating reversion to acreage proceedings for processing the petition and (3) the Subdivider for checking, processing and recording an amended map or certificate of correction.

(b) A fee of $250 shall be charged to the appellant to defray costs of an appeal under Section 1614 of this Code.

(c) Payment of fees charged under this Code does not waive the fee requirements of other ordinances and rules and regulations pursuant thereto. (Added by Ord. 7-05, File No. 041665, App. 1/8/2005)

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ARTICLE 4: TENTATIVE MAPS

Sec. 1620.	Pre-Filing Conference.
Sec. 1621.	Application Packet.
Sec. 1622.	Tentative Map and Accompanying Documents.
Sec. 1624.	Filing.
Sec. 1625.	Referral to Other Agencies.
Sec. 1626.	Time Limit for Agency Review.
Sec. 1627.	Agency Reports.
Sec. 1628.	Subdivision Conference.
Sec. 1629.	Director's Consolidated Report.
Sec. 1630.	Conditions.
Sec. 1631.	Action: Advisory Agency's Decision.
Sec. 1632.	General Plan and Redevelopment Plan Consistency Determination.
Sec. 1633.	Vesting Tentative Maps.
Sec. 1633.1.	Vesting Tentative Map.
Sec. 1633.2.	Vesting Tentative Map Requirements.
Sec. 1633.3.	Rights Conveyed.
Sec. 1633.4.	Vesting Tentative Maps-Inconsistency with Ordinances and Other Standards.
Sec. 1634.	Agency Review and Approval of Subdivision Maps.

SEC. 1620. PRE-FILING CONFERENCE.

Prior to filing a Tentative Map, the Subdivider may elect to submit to the Director preliminary maps, plans and other data concerning a proposed subdivision. Within 14 days after the receipt of said material, the Director will hold a conference with the Subdivider, Planning Department and any other interested agencies, including the San Francisco Redevelopment Agency, to discuss the proposed subdivision. This procedure is optional and does not waive the requirements for filing a Tentative Map. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1621. APPLICATION PACKET.

The initial action in connection with the making of any subdivision for which a Tentative Map is required shall be the preparation of the application packet. Section 1622, and with respect to Vesting Tentative Maps Sections 1633.1 and 1633.2, of this Code and the Regulations adopted thereunder cover the preparation of the component parts of said application packet. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1622. TENTATIVE MAP AND ACCOMPANYING DOCUMENTS.

(a) The Tentative Map shall be prepared by a qualified and duly licensed professional land surveyor or civil engineer.

(b) The Tentative Map shall contain the following data, as appropriate, in sufficient detail to enable the Director and other agencies to evaluate the proposed subdivision:

(1) Title, as required by the Subdivision Regulations;

(2) Explanatory notes, as required by this Code and the Subdivision Regulations; and

(3) Topographic map of the proposed subdivision and adjacent lands showing the existing conditions and the proposed changes, as required by the Subdivision Regulations.

(c) The Tentative Map shall conform to the Subdivision Regulations regarding format and contents. The Director, for Transfer Maps and where otherwise appropriate in accordance with the Subdivision Regulations, may waive or defer Tentative Map requirements or may authorize deletion or reduction of any Tentative Map requirements not required by the SMA on the determination that the Tentative Map contains sufficient information to be evaluated adequately and preparing it in the prescribed form would impose a hardship upon the Subdivider. Where requirements are waived or deferred, appropri-

ate conditions may be included on the Tentative Map for providing such waived or deferred requirements.

(d) The Tentative Map shall be accompanied by the following documents, as provided in the Subdivision Regulations:

(1) Statement. A written statement shall contain the following information:

(i) Existing use or uses of the property, including whether or not there are existing tenancies and the conditions and terms thereof;

(ii) Description of the proposed subdivision, including, if known, the number of lots or units, their sizes and intended uses, nature of the development, and the total area of the development represented by each use;

(iii) Any improvements proposed to be constructed or installed including the source of water supply and the sewage disposal proposed, and the tentative schedule for the start and completion thereof;

(iv) Whether the Subdivider intends to file a Final Map or a Parcel Map;

(v) Description of exceptions or waivers that are requested; and

(vi) If the Subdivider plans to file multiple Final Maps on portions of the area covered by the Tentative Map, the Subdivider shall submit a written notice to this effect.

(2) Environmental Evaluation Data. Data shall be supplied on the appropriate Planning Department forms for an environmental evaluation or in appropriate format when necessary to satisfy requirements for environmental review under the California Environmental Quality Act. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1624. FILING.

(a) The application packet, together with the initial fee payment, shall be filed with the Director.

(b) The date of filing shall be the date when a complete application packet has been accepted by the Director.

(c) The Director shall determine whether an application packet is complete and notify the Subdivider within 30 days of the date of the submittal of the application packet. If the Director determines that the application packet is not complete, the notice to the Subdivider shall list all of the information necessary to comprise a complete application. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1625. REFERRAL TO OTHER AGENCIES.

Within three working days after a complete application packet has been filed with the Director, the Director shall forward copies to the Agency, the Planning Department, the Bureau of Engineering, the Department of Building Inspection, the City Attorney and other appropriate government agencies and City agencies for their review. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1626. TIME LIMIT FOR AGENCY REVIEW.

(a) The time limit for government agency and City agencies review shall be 30 days from the date the Director determines that an application packet is complete.

(b) The time limit for government agency and City agencies review may be extended by mutual consent of the Subdivider and the Director. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1627. AGENCY REPORTS.

Each reviewing agency shall report, in writing, to the Director its findings on and recommendation for approval, conditional approval or denial of an application packet subject to and in accordance with the Plan and Plan Documents. The Subdivider may request from the Director, and shall be provided with, any or all copies of such findings and recommendations. The Planning Department's report shall include a finding on consistency with the General Plan. The

Agency's report shall include a finding of consistency with the Plan and Plan Documents. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1628. SUBDIVISION CONFERENCE.

No later than five days after expiration of the review time limits set forth in Section 1626, the Director at his or her discretion may hold a subdivision conference to discuss the map application, unless the Subdivider has requested a conference or has filed a notice of intent to file multiple Final Maps, in which case the conference is mandatory. Written notice of such conference shall be sent to the Subdivider, and to all agencies that will be submitting or have already submitted a report on the application packet. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1629. DIRECTOR'S CONSOLIDATED REPORT.

(a) Whenever a subdivision conference is held, the Director shall prepare a written report on the findings or recommendations discussed in the conference, attaching thereto copies of the reports from, or comments made at the subdivision conference by, other agencies. A copy of said report shall be sent to each participant in the subdivision conference. Said report shall be prepared by the Director within five working days after the subdivision conference but in no event less than five days prior to any public hearing on the subject map.

(b) Whenever a public hearing is required or the Director elects to hold a public hearing, the Director shall provide to the Subdivider the Director's report or recommended findings and the findings and recommendations received from the reviewing agencies. Said information or report shall be submitted within five working days after expiration of the review time limits. Said information or report shall be made available to the public prior to the public hearing. In the event a subdivision conference is required, a public hearing shall be held after such conference, no earlier than five drays following preparation of the Director's report thereon, and within the time periods set forth in the SMA. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1630. CONDITIONS.

(a) Conditions on approval of a Tentative Map, Vesting Tentative Map, or Parcel Map, or improvement plans or agreement may relate wholly or in part to any improvements or structures required pursuant to the Plan or Plan documents or which may be constructed within, or associated with, the subdivision, as well as to the subdivision itself.

(b) Subject to Section 1612.1, conditions may be required to be fulfilled before or after such filing of the related Final or Parcel Map. Where such conditions are to be fulfilled after filing of the related Final Map, the Subdivider shall, where appropriate, enter into an improvement agreement and furnish security for compliance with those conditions including, but not limited to, security satisfying the requirements of California Government Code Section 66499, pursuant to the provisions of Article 6 and Article 8 of this Division.

(c) No conditions shall be imposed on a Tentative Map, Vesting Tentative Map or Parcel Map or improvement plans or improvement agreement that are not consistent with, exceed the limitations set forth in, or otherwise conflict with the Plan or Plan Documents.

(d) The provisions of this Code providing for Vesting Tentative Maps do not enlarge, diminish, or alter the types of conditions which may be imposed on a development, nor in any way diminish or alter the City's power to protect against a condition dangerous to the public health or safety. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1631. ACTION: ADVISORY AGENCY'S DECISION.

(a) Within 50 days after the filing of a complete application for the Tentative Map, unless the time has been extended by mutual consent of the Subdivider and the Director, the Director shall take action on the map application

by approving, conditionally approving or disapproving the Tentative Map. If the map is disapproved, the Director shall also state the reasons for disapproval.

(b) Copies of the Director's decision shall be sent to all agencies that submitted reports to the Board and to the public as set forth in Section 1614.

(c) The City shall comply with all time limitations and requirements for processing subdivision maps in the SMA, including, without limitation, those in Government Code Section 66452.4. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1632. GENERAL PLAN AND REDEVELOPMENT PLAN CONSISTENCY DETERMINATION.

(a) Whenever a property is to be subdivided, the Department of Planning shall report on the question of consistency of the subdivision with the General Plan and the Redevelopment Agency shall report on consistency with the Plan.

(b) The Director shall approve, conditional approve, or disapprove the proposed subdivision, consistent with the SMA, subject to any decision on appeal by the Board of Supervisors.

(c) When the Department of Planning or the Agency finds, subject to any decision on appeal by the Board of Supervisors, or when the Board of Supervisors finds, that a proposed subdivision will be consistent with the Plan, Plan Documents or General Plan only upon compliance with certain conditions, the Director shall incorporate said conditions in his or her conditional approval of the proposed subdivision. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1633. VESTING TENTATIVE MAPS.

SEC. 1633.1. VESTING TENTATIVE MAP.

(a) Whenever a provision of this Code requires that a Tentative Map or Parcel Map be filed, the Subdivider may file instead a Vesting Tentative Map and Final Map.

(b) Except as otherwise provided in Sections 1633.2 through 1633.4 of this Code, a Vesting Tentative Map shall be subject to the same procedures, requirements and other Code provisions as any other Tentative Map. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1633.2. VESTING TENTATIVE MAP REQUIREMENTS.

(a) In addition to meeting the requirements otherwise applicable to Tentative Maps, any Subdivider applying for approval of a Vesting Tentative Map shall also, at the time a Vesting Tentative Map application is filed:

(1) Have printed conspicuously on the face of the map the words "Vesting Tentative Map."

(2) Provide such additional information as required in Section 1333.2 of this Code. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1633.3. RIGHTS CONVEYED.

(a) Approval of a Vesting Tentative Map shall confer a vested right to proceed with development asset forth in Chapter 4.5 of the SMA, Section 66498.1 et seq.

(b) The right referred to in Subsection (A) shall expire if a Final Map is not approved before expiration of the related Vesting Tentative Map under California Government Code Section 66452.6 and this Code. If a Final Map is approved, the development right referred to in Subsection (A) shall continue during the following period of time.

(1) Two years from recording of the approved Final Map. Where several Final Maps are recorded on various phases of a project covered by a single Vesting Tentative Map, this initial time period shall begin for each when the Final Map for that phase is recorded. Where the City uses more than 30 days to process a completed application for a grading permit or for design or architectural review, or such other period of time as provided in the Plan Documents, this initial

time period shall be extended by the processing time, counted from the date the application was completed.

(2) An additional period of not more than one year, if the proposed Subdivider applies for such an extension at any time before the expiration of the period provided in Subsection (b)(1), and if the Department of Public Works determines that such extension will not prejudice the interests of the public or other private parties. If the Department of Public Works does not act on an application for extension within 40 days after receiving it, it shall be deemed disapproved. The proposed Subdivider may, appeal by filing a written appeal with the Clerk of the Board of Supervisors not later than 15 days after the disapproval. Any such appeal shall be heard at the time and under the procedural rules then applicable to appeals from denial of Tentative Maps.

(3) If the Subdivider submits a complete building or site permit application before the expiration of the applicable period stated in Subsection (b)(1) or (b)(2), the period during which that application is being processed and the period of the life of any corresponding building or site permit or any extension thereof.

(4) If a Final Map is recorded based upon a Vesting Tentative Map and the development rights under this Section expire, the Final Map remains in effect without those rights. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1633.4. VESTING TENTATIVE MAP—INCONSISTENCY WITH ORDINANCES AND OTHER STANDARDS.

(a) Subsections 1633.1 through 1633.3 relate only to conditions and requirements imposed by the City and do not affect the obligation of a Subdivider to comply with the conditions and requirements of State or federal laws, regulations or policies.

(b) Notwithstanding any other provision of this Code, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies or standards applicable under Section 1633.3(a), and the City may grant such approvals or issue such permits to the extent consistent with the Plan and Plan Documents and permitted by otherwise applicable City regulations. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1634. AGENCY REVIEW AND APPROVAL OF SUBDIVISION MAPS.

(a) Notwithstanding any provision of the Subdivision Code to the contrary, a Tentative Map shall not be deemed finally approved until the Agency in accordance with the Plan and Plan Documents, reviews and approves the Tentative Map to ensure that it is consistent with the Plan and the Plan Documents, including the Hunters Point Shipyard Phase I Infrastructure Development Plan, the scope of development and the design for development. The Agency shall also have the right to review any amendment to the Tentative Map, or a subsequent Tentative Map.

(b) The applicant shall submit copies of its application packet for a Tentative Map, and the application packet for an amendment to a Tentative Map or a subsequent Tentative Map, to the Agency when it submits the application packet to the Director. The Agency, in accordance with the Plan and Plan Documents, shall approve, disapprove or approve with conditions the Tentative Map, amendment to the Tentative Map, or a subsequent Tentative Map within 30 days following the date the Director determines that the application packet is complete, unless such time has been extended pursuant to Section 1626 of the Subdivision Code. The Agency shall deliver the determination to the Director of Public Works in writing, with a copy to the applicant.

(c) Notwithstanding any provision of the Subdivision Code to the contrary, in accordance with the Plan and Plan Documents, a proposed Final Map or Parcel Map shall not be deemed finally approved for recordation unless and until the Agency reviews and approves or is deemed to have approved the proposed Final Map or Parcel Map. The Agency shall approve the proposed Final Map or Parcel Map if: (i) development of the area covered by the proposed Final Map or Parcel Map is consistent with the Plan and Plan Documents or project approvals issued by the

Agency, if any; and (ii) the conditions that were imposed upon approval of the Tentative Map to provide infrastructure improvements consistent with the Plan and Plan Documents have been satisfied or the performance of such conditions is otherwise secured by an improvement agreement.

(d) The applicant shall submit copies of all proposed Final Maps or Parcel Maps to the Agency at the same time such proposed Final Maps or Parcel Maps are filed with the Director. The Agency shall, in accordance with the Plan and Plan Documents, approve, disapprove, or approve with conditions the proposed Final Maps or Parcel Maps within 30 days following receipt of the complete Final Map or Parcel Map from the applicant, by delivering a determination to the Director of Public Works, with a copy to the applicant. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

ARTICLE 5: SUBDIVISION REQUIREMENTS

Sec. 1635. Public Facilities.
Sec. 1636. Utilities.
Sec. 1637. Beautification.
Sec. 1638. Parkland Dedication.
Sec. 1639. Easements.
Sec. 1640. Monuments.

SEC. 1635. PUBLIC FACILITIES.

(a) **General.** Public facilities listed in this Section shall (where provided) meet the design and construction standards in the Plan, Plan Documents and the Hunters Point Shipyard Subdivision Regulations consistent therewith.

(b) **Streets.**

(1) **Dedicated Public Streets.** A subdivision and each lot, parcel, and unit thereon shall have direct access to a public right-of-way. Title to a new or widened public right-of-way shall be conveyed to the City by proper deed either prior to approval of the Final Map or as provided in an improvement agreement entered into pursuant to Section 1651.

(2) **Private Streets.** Easements for government facilities in private streets shall meet the requirements of Section 1639 of this Code.

(c) **Frontage Improvements.** The frontage of each lot shall be improved to the geometric section specified by the Director in accordance with the Plan, Plan Documents, including any streetscape plan approved by the Agency and the street structural section, curbs, sidewalks, planting areas, driveway approaches and transitions in accordance with the Subdivision Regulations.

(d) **Pedestrian Ways.** Pedestrian ways shall be required in accordance with the Plan and Plan Documents.

(e) **Sanitary and Drainage Facilities.** The Subdivider shall provide sanitary and drainage facilities consistent with the Plan and Plan Documents. When connected to City facilities, such facilities will serve adequately all lots, dedicated areas and all other areas comprising the subdivision.

(f) **Fire Protection.** The Subdivider shall provide for the installation of fire hydrants and other appurtenances and facilities needed for adequate fire protection consistent with the Plan and Plan Documents.

(g) **Street Lighting.** The Subdivider shall provide street lighting facilities along all streets, alleys and pedestrian ways consistent with the Plan and Plan Documents.

(h) **Fencing.** An approved fence may be required on parcels or lots within the subdivision adequate to prevent unauthorized access between the subdivided property and adjacent properties.

(i) **Other Improvements.** Other improvements may be required including, but not limited to, grading, dry utilities, open space parcel improvements, temporary fencing, signs, street lines and markings, street trees and shrubs, street furniture, landscaping, monuments, bicycle facilities, and smoke detectors, or fees in lieu of any of the foregoing, shall also be required as determined by the Director in accordance with this Code, but only to the extent consistent with the Plan, Plan Documents, and the General Plan. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1636. UTILITIES.

The Subdivider shall provide or cause to be provided a water system, connected to the San Francisco Public Utilities Commission's water distribution system as well as all other required public faculties as set forth in the Plan and Plan documents. The Subdivider shall also provide electric, gas and communication services connected to the appropriate public utility's distribution system. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1637. BEAUTIFICATION.

(a) **Undergrounding of Utilities.** All new utility lines shall be undergrounded as specified in Article 18 of the Public Works Code.

(b) **Street Trees and Landscaping.** Trees planted along a public street, within the right-of-way, and all landscaping within said right-of-way shall conform to the requirements of the Plan, Plan Documents and Article 16 of the Public Works Code to the extent consistent therewith. In the case of all newly constructed subdivisions, the Subdivider shall provide street trees and landscaping conforming to the policies of the General Plan, Plan and Plan Documents. Provisions shall be made for maintenance of said trees.

(c) **Open Areas on Private Property.** When required pursuant to the Plan and Plan Documents, the Subdivider shall provide for the landscaping of open areas on private property and provision shall be made or the maintenance thereof. Such open areas shall be restricted to such use in accordance with the Plan and Plan Documents. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1638. PARKLAND DEDICATION.

Park and open space improvements and dedications shall be provided as required by the Plan and Plan Documents, and in conformance with the standards set forth therein and subject to the approval of the Director. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1639. EASEMENTS.

Easements for City utilities and City facilities, such as sanitary and drainage facilities, fire protection facilities and City-owned street lighting facilities shall be for the use of such governmental facilities, with the right of immediate access to the utilities and facilities by the City. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1640. MONUMENTS.

(a) The location and installation of survey monuments shall conform to the standards in the Subdivision Regulations. When such monuments are "tied" to the City or State monuments, for which coordinates of the California Coordinate System are available, the corresponding coordinates for such monuments shall be determined and recorded.

(b) The location of survey monuments shall be shown on the Final Map. In the event all survey monuments are not instilled prior to filing of the Final Map or Parcel Map a monument bond shall be filed at that time. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

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ARTICLE 6: IMPROVEMENT REQUIREMENTS

Sec. 1645. General.
Sec. 1646. Improvement Plans.
Sec. 1647. Construction.
Sec. 1648. Failure to Complete Improvements Within Agreed Time.
Sec. 1649. Inspection and Testing Fees.
Sec. 1649.1. Revisions to Approved Plans.
Sec. 1651. Improvement Agreement.
Sec. 1651.1. Completion of Improvements.
Sec. 1651.2. Acceptance of Improvements.

SEC. 1645. GENERAL.

(a) The Subdivider shall provide for the construction and installation of all public improvements in the subdivision in accordance with the Plan and Plan Documents. The term "public improvements" shall mean all improvements required pursuant to Article 5 of this Code, the Plan and Plan Documents, and any additional improvements for the benefit of the public required as a condition of approval of a Tentative Map, consistent with the Plan and Plan Documents.

(b) Except for Transfer Maps that are governed by Sections 1612.1 and 1651.1(c), the Subdivider shall enter into an improvement agreement pursuant to Section 1651 whenever required public improvements have not been completed prior to the filing of the Final Map.

(c) Notwithstanding any provision of this Code or the Public Works Code to the contrary, a Subdivider or applicant may request front the Director a street improvement permit to initiate the construction of public improvements independent of or as part of the approval of a Transfer Map, Final Map, or Parcel Map. Said permit shall comply with the applicable provisions of this Code, including, but not limited to, Articles 5, 6, and 8 in regard to the submittals, design, review, approval, documentation, construction, security, and acceptance for said public improvements, including associated improvement plans. In addition, all such permits shall comply with the provisions of Public Works Code Sections 2.3.1 et seq., if such provisions are applicable to the work contemplated under the permit. Fees for said permits shall be according to the Public Works Code Sections 2.1 et seq. unless modified by the Plan or Plan Documents. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1646. IMPROVEMENT PLANS.

(a) Following approval of the Tentative Map and prior to filing of the Final Map, the Subdivider's engineer shall submit grading and construction plans for any required public improvements to the Director for approval.

(b) Improvement plans including grading plans and an erosion control plan, as appropriate, shall be prepared under the direction of a qualified and duly licensed professional civil engineer registered in the State of California.

(c) Improvement plans shall conform to the Subdivision Regulations regarding format, size and contents.

(d) Any specifications supplementing the Standard Specifications shall be considered a part of the improvement plans.

(e) The improvement plans shall reflect the public improvement required under the Hunters Point Phase I Infrastructure Development Plan ("Phase I Infrastructure Plan"), as set forth in the Plan and Plan Documents for Phase I. The Phase I Infrastructure Plan may be amended or modified only by a written instrument executed by City and Agency, with the written consent of the Developer Representative, as defined in Hunters Point Shipyard Interagency Cooperation Agreement for Phase I. The Developer Representative's consent shall not be unreasonably withheld, conditioned or delayed.

(1) The Mayor or his or her designee and the Director (or any successor City officer as designated by law) shall have the authority to

consent to any non-material amendments or other modifications to the Phase I Infrastructure Plan, after consultation with the directors of any affected City Agencies. For purposes hereof, "non-material changes" shall mean any change which does not materially increase the costs or liabilities of the City, or does not materially decrease the time periods required for review or approval by any City agency of permits, approvals, agreements and entitlements in connection with the implementation of the Plan and Plan Documents.

(2) Material amendments to the Phase I Infrastructure Plan that would materially alter the obligations of the City agencies or principal benefits as provided in this Section shall require the approval of the Board of Supervisors, by resolution.

(f) The Director shall act upon and review improvement plans within the time periods specified in Section 66456.2 of the SMA; provided, however, that no improvement plans submission shall be deemed complete for filing until the subdivider has obtained approval of the improvement plans pursuant to Article 31 of the Health Code. The Director shall send a copy of the improvement plans to the Agency for its review. The Director's review of the improvement plans shall conform with the Plan and Plan Documents. This time limit may be extended by mutual agreement. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1647. CONSTRUCTION.

(a) No construction of public improvements shall commence until improvement plans have been approved by the Director and appropriate City permits have been issued. Prior to issuance of any such permits, the City shall obtain easements from the Subdivider or third parties to allow for the City to complete construction of public improvements on private property should the Subdivider fail to do so and to allow for public use, if necessary, prior to City acceptance of such public improvements. Also, prior issuance of any such permits, the City shall obtain an irrevocable offer of dedication of private property in fee title from the Subdivider or third parties where said property is designated for use as future public right-of-way in the Plan and Plan Documents. The City, at its option, shall obtain an irrevocable offer of dedication of private property in fee title from Subdivider or third parties where public improvements will be constructed on said property. In addition, City also shall obtain from Subdivider an irrevocable offer of dedication of any public improvements constructed pursuant to the Plan, Plan Documents, and this Code.

(b) Construction of public improvements that are to be accepted by the City as public improvements or for public maintenance and liability purposes shall be subject to inspection by the Director. The Subdivider is responsible for paying the applicable engineering inspection fee as specified in the Public Works Code.

(c) Any work done by the Subdivider prior to issuance of appropriate City permits or approval of improvement plans, including changes thereto, or without the inspection and testing required by the Director is subject to rejection. Such work shall be deemed to have been done at the risk and peril of the Subdivider.

(d) The design and layout of all required improvements, both on-site and off-site, private and public, shall conform to the Plan, Plan Documents, the applicable provisions of City regulations and Tentative Map conditions consistent therewith.

(e) Installation of Underground Facilities. All underground facilities including sanitary and drainage facilities and excepting survey monuments installed in streets, alleys or pedestrian ways shall be constructed, by the Subdivider and inspected and approved by the Director, prior to the surfacing of such street, alley or pedestrian way. Service connections for all underground utilities and sewers shall be laid to such length as will in the Director's opinion obviate disturbing the street, alley, or pedestrian way improvements when service connections are completed to properties in the subdivision. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1648. FAILURE TO COMPLETE IMPROVEMENTS WITHIN AGREED TIME.

The improvement agreement shall include provisions consistent with the Plan and Plan Documents and this Code regarding extensions of time and remedies when improvements are not completed within the agreed time. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1649. INSPECTION AND TESTING FEES.

(a) The actual costs of inspecting the construction of improvements under Section 1647(b) of this Code shall be paid by the Subdivider.

(b) The actual costs of testing the materials incorporated in the improvements under Section 1647(b) of this Code shall be paid by the Subdivider. (Added by Ord. 7-05, File No. 041665, App. 1/8/2005)

SEC. 1649.1. REVISION TO APPROVED PLANS.

(a) Requests by the Subdivider for revisions to the approved improvement plans shall be submitted in writing to the Director and shall be accompanied by drawings showing the proposed revision. If the revision is acceptable to the Director and the Agency and consistent with the Plan, Plan Documents and Tentative Map, the Director shall initial the revised plans. Construction of any proposed revision shall not commence until revised plans have been received and approved by the Director. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1651. IMPROVEMENT AGREEMENT.

(a) **General.** This Section shall only apply to public improvements that have not been completed or conditions that have not been fulfilled prior to filing a Parcel or Final Map. An agreement (the "improvement agreement") shall be approved by the Director, approved as to form by the City Attorney, and executed by the Director on behalf of the City. The improvement agreement shall be consistent with the Plan and Plan Documents and shall provide for:

(1) Construction of all public improvements required pursuant to the Plan, Plan Documents, this Code, and conditions imposed on the Tentative Map or Parcel Map consistent therewith, including any required off-site improvements, within the time specified by Section 1651.1;

(2) Satisfaction of conditions precedent to the transfer of title to the City of all land and improvements required to be dedicated to or acquired by the City, if the City elects to defer transfer of title until after the public improvements have been completed consistent with the Plan and Plan Documents, including any approved title exceptions as defined therein, which are or shall be specified herein;

(3) Payment of inspection fees in accordance with applicable City regulations, consistent with the Plan and Plan Documents;

(4) Improvement security as required by Section 1670;

(5) Maintenance and repair of any defects or failures of the required public improvements, and to the extent feasible removing their causes, prior to acceptance of the public improvements by the City or Agency;

(6) Release and indemnification of the City from all liability incurred in connection with the construction of public improvements and payment of all reasonable attorneys' fees that the City may incur because of any legal action or other proceeding arising from the construction, except release and indemnification disallowed under the SMA or any other State or federal law pursuant to the procedures provided in the SMA;

(7) Payment by the Subdivider of all costs and reasonable expenses and fees, including attorneys' fees, incurred in enforcing the obligations of the improvement agreement;

(8) Any other deposits, reimbursements, fees or conditions as required by City regulations consistent with Plan and Plan Documents, and as may be required by the Director;

(9) Any other provisions required by the City as reasonably necessary to effectuate the purposes and provisions of the SMA and this Code in accordance with the Plan and Plan Documents.

(b) Any improvement agreement, contract or act required or authorized by the SMA or this Chapter for which security is required, shall be secured in accordance with Section 66499 et seq. of the SMA and Article 8 of this Division. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1651.1. COMPLETION OF IMPROVEMENTS.

(a) With the exception of Transfer Maps, which are governed by Sections 1612.1 and 1651.1(c) hereof, the public improvements for subdivisions of five or more parcels which are not otherwise required to be completed prior to recordation of a Final Map, shall be completed by the Subdivider within the time specified in an improvement agreement which is consistent with the Plan and Plan Documents.

(b) With the exception of Transfer Maps, which are governed by Sections 1612.1 and 1651.1(c) hereof, the completion of public improvements for subdivisions of four or fewer parcels which are not otherwise required to be completed prior to recordation of a Parcel Map or Final Map may be deferred until a permit or other grant of approval for the development of any parcel within the subdivision is applied for, unless the completion of the public improvements is found to be necessary for public health or safety or for the orderly development of the surrounding area, in which case the improvement agreement shall specify a time for completion. If any required public improvements are not completed at the time of recordation of a Parcel Map or Final Map for four or fewer parcels, an improvement agreement is required pursuant to Section 1651. This finding shall be made by the Director, after consultation with appropriate City agencies. The specified date for completion of the public improvements, when required, shall be stated in the improvement agreement. Public improvements shall be completed in accordance with the improvement agreement.

(c) No public improvements shall be required to be completed in connection with Transfer Maps. For all other subdivisions, only on-site public improvements and those off-site public improvements necessary to provide connections to the on-site improvements and those public improvements required by the Plan or Plan Documents shall be required.

(d) Completion dates may be extended by the Director according to the following procedures:

(1) The Subdivider must request an extension in writing, stating adequate evidence to justify the extension, by letter to the Director. The request shall be made not less than 30 days prior to expiration of the improvement agreement. The Director may grant such extensions, subject to the terms of the improvement agreement.

(2) The Director may condition approval of an extension agreement upon the following:

(i) Revised improvement construction estimates to reflect current improvement costs as approved by the Director;

(ii) Increase of improvement securities in accordance with revised construction estimates;

(iii) Inspection fees may be increased to reflect current construction costs but shall not be subject to any decrease or refund; and

(iv) Conditions that the Director deems necessary to assure the timely completion of public improvements.

(3) If authorized by the Director, the Subdivider shall enter into an improvement agreement extension ("extension agreement") with the City. The extension agreement shall be approved by the Director and the City Attorney, and executed by the Director, the Subdivider.

(4) The costs incurred by the City in reviewing and processing the extension agreement shall be paid by the Subdivider at actual cost.

(e) Should the Subdivider fail to complete the public improvements-within the specified time, or correct all deficiencies within the time specified for completion, the City may, by resolution of the Board of Supervisors and at its option, cause any or all uncompleted public improvements to be completed and all uncorrected deficiencies to be corrected, and the Subdivider and parties executing the security or securities shall be firmly bound for the payment of all necessary costs.

(f) **As-Built Plans.** Upon completion of the public improvements, the Subdivider shall submit to the Director a reproducible set of as-built improvement plans. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1651.2. ACCEPTANCE OF IMPROVEMENTS.

(a) **General.** With respect to all subdivisions, when any deficiencies in the required public improvements have been corrected, as-built improvement plaits submitted, and the City Engineer, upon written request front the Subdivider, issues a Notice of Completion, the completed public improvements shall be considered by the Director for acceptance.

(b) **Acceptance.** If the public improvements have been completed to the satisfaction of the Director and are ready for their intended use, the Director shall provide the Board of Supervisors with a written certificate to that effect, and the public improvements may be accepted by the Board of Supervisors, by ordinance, subject to the provisions of San Francisco Administrative Code Section 1.52. Acceptance of the improvements shall imply only that the improvements have been completed satisfactorily, are ready for their intended use, and that public improvements have been accepted for public use. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

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ARTICLE 7: FINAL MAPS AND PARCEL MAPS

Sec. 1655. Time Limit for Submittal.
Sec. 1655.1. Final Maps Showing Only Portions of Tentative Map.
Sec. 1656. Final Map.
Sec. 1657. Certificates and Statements on Final Map.
Sec. 1658. Parcel Map.
Sec. 1659. Check Prints.
Sec. 1660. Map Check.
Sec. 1661. Filing.
Sec. 1662. Submittal to Board.
Sec. 1663. Recordation.
Sec. 1664. Correction and Amendments of Map.

SEC. 1655. TIME LIMIT FOR SUBMITTAL.

Within 36 months after the approval of the Tentative Map application or preliminary Parcel Map application, unless such time has been extended upon approval of the Tentative Map or pursuant to Government Code Section 66452.6, the Final Map or Parcel Map shall be filed with the Director. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1655.1. FINAL MAPS SHOWING ONLY PORTIONS OF TENTATIVE MAP.

(a) **General.** Multiple final maps relating to an approved or conditionally approved Tentative Map may be filed prior to the expiration of the Tentative Map if, in addition to all other requirements of this Code pertaining to Final Maps, a Subdivider files a notice pursuant to Section 1622(d)(1)(vi) or, after filing of the Tentative Map, the Subdivider and Director (After consulting with the Agency) concur in the filing of multiple Final Maps. A Subdivider filing multiple Final Maps must obtain approval of the Director pursuant to Subsection (b) of this Section in order to obtain the certificate required by Section 1657.

(b) The Director shall approve a Final Map which is in compliance with the conditions of the Tentative Map, but which shows only a portion of the Tentative Map, unless any one of the following conditions occurs.

(1) The Director finds:

(i) That it will not be feasible from an engineering standpoint to construct the public improvements required for the areas shown on the Final Map or the Final Map is inconsistent with the SMA; or

(ii) That construction of the public improvements shown in the proposed Final Map would not provide adequate access to the area shown on the Final Map unless additional street or easement dedications, or public improvements as shown on the General Plan or in the Plan or Plan Documents, are provided, or other reasonable conditions, not in conflict with the Plan or Plan Documents, are imposed.

(2) The Director, or in the event of a hearing by the Agency pursuant to Subsection (d) below, the Agency finds that development of the uses authorized within the Final Map area at that time would not promote orderly development consistent with the General Plan, Plan and Plan Documents unless additional street or easement dedications, or public improvements as shown on the Tentative Map are provided, or other reasonable conditions, not in conflict with the Plan or Plan Documents, are imposed.

(c) The Director shall make a determination pursuant to Subsection (b) within 40 days following submittal of the Final Map or Parcel Map.

(d) If the Director refuses to approve for recording a Final Map showing only a portion of a Tentative Map, the Director shall provide the applicant with written findings in support of the determination. The Director's refusal to approve a phased Final Map may be appealed to the Agency, and then, if necessary, to the Board, for

a determination of whether the Phased Final Map is consistent with the SMA, the Tentative Map, the Plan and Plan Documents, provided, however, that any decision by the Agency regarding consistency with the Plan shall be final. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1656. FINAL MAP.

(a) The Final Map shall consist of the title sheets and map sheets.

(b) The title sheets shall contain the following data.

(1) The title, consisting of the name of the subdivision and the location;

(2) A general description of all the property being subdivided by references to recorded deeds or to recorded maps;

(3) Certificates, affidavits and acknowledgments; and

(4) General information including a key map when there is more than one map sheet.

(c) The map sheets shall contain the following data, in sufficient detail so that the sale, transfer and description of real property may be accomplished by reference to the Final Map and that all public improvements, properties and easements may be determined as to location, extent and condition:

(1) Title;

(2) Explanatory and description notes; and

(3) Map.

(d) The Final Map shall conform to the requirements of Chapter 2, Article 2 of SMA and to the Subdivision. Regulations regarding detailed format and contents. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1657. CERTIFICATES AND STATEMENTS ON FINAL MAP.

(a) In addition to the certificates required by SMA, the following certificates shall be on the Final Map.

(1) City Attorney's certificate:

(2) Advisory Agency's certificate;

(3) Certificate of Improvement Agreement. Whenever the conditional approval of the application packet includes conditions which are to be met after the recordation of the Final Map, a certificate signed by the Director evidencing that an improvement agreement has been entered into between the Subdivider and the City shall be required; and

(4) Certificate of Approval of Multiple Final Maps. Where the Final Map shows only a portion of the Tentative Map, then a certificate signed by the Director pursuant to Section 1655.2 shall be required.

(b) The Director may require other notes, restrictions, references or requirements to be indicated on a Final Map. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1658. PARCEL MAP.

(a) The requirements of Subsection (c) of Section 1656 of this Code shall apply to Parcel Maps.

(b) The Parcel Map shall conform to the requirements of Chapter 2, Article 3 of SMA and to the Subdivision Regulations regarding detailed format and contents.

(c) The Director may require other notes, restrictions, references or requirements to be indicated on a Parcel Map. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1659. CHECK PRINTS.

(a) Prior to filing of the Final Map or Parcel Map, the Subdivider shall submit to the Director.

(1) Prints of the Final Map sheets or the Parcel Map sheets;

(2) A preliminary title report,

(3) Traverse sheets, showing the mathematical closure of the exterior boundaries around the subdivision, of each lot boundary in the subdivision, and of boundaries of easements and of dedicated rights-of-way.

(4) A written statement indicating how each Tentative Map condition has been satisfied. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1660. MAP CHECK.

(a) The Director shall check the prints of the Final Map or the Parcel Map to determine if it substantially conforms to the approved Tentative Map, this Code and SMA.

(b) Within 14 days after submittal, the Director shall return a set of the submitted Prints, noting therein any required corrections, to the Subdivider's engineer. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1661. FILING.

(a) After the check prints have been approved by the Director, the Subdivider shall file with the Director:

(1) The Final Map or Parcel Map, corrected to its final form, together with the copies specified in the Subdivision Regulations;

(2) The bonds or other security and approved improvement agreement;

(3) When applicable, deeds conveying all streets in the subdivision to the City and deeds granting easements for sewers, drains and pedestrian walkways which are not dedicated on the map;

(4) Evidence of title;

(5) The recording fee and evidence that all fees required by this Code have been paid; and

(6) The corrected Preliminary Soil Report, when required. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1662. SUBMITTAL TO BOARD.

(a) After obtaining the required certificates on the Final Map, or on the Parcel Map when dedications are included therein, the County Surveyor shall submit said map and the other documents to the Director.

(b) After determining that all requirements of SMA and this Code have been met, the Director shall endorse the Final Map or Parcel Map and file the same, together with the other documents, with the Clerk. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1663. RECORDATION.

(a) After approval of a Final Map or Parcel Map by the Board, the Clerk, or his or her designee, shall file said map with the Recorder.

(b) After signing a Parcel Map, when no dedications are included therein, the Director shall file said map with the Recorder.

(c) No Final Map or Parcel Map for a subdivision governed by this Code shall be recorded unless said Map has been approved by the Director or by the Board as required herein. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1664. CORRECTION AND AMENDMENTS OF MAP.

(a) **Requirements.** After a Final or Parcel Map's recorded in the office of the Recorder, it may be amended administratively, without public hearing, by a Certificate of Correction as to Subparagraphs (1) to (6) below, and by an amending map and public hearing as to Subparagraph (7) below:

(1) To correct an error in any course or distance shown thereon;

(2) To show any course or distance that was omitted therefrom;

(3) To correct an error in the description of the real property shown on the map;

(4) To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor charged with responsibility for setting monuments;

(5) To show the proper location or character of any monument which has been changed in location or character, or originally was shown at the wrong location or incorrectly as to its character;

(6) To correct any other type of map error or omission as approved by the Director, which does not affect any property right. Errors and omissions may include, but not be limited to, lots and numbers, acreage, street names and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the Final or Parcel Map;

(7) To make modifications when there are changes which make any or all of the conditions of the Map no longer appropriate or necessary and when the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded map, and the Director finds that the map as modified conforms to the provisions of Section 66474 of the SMA. Such modification shall require an amending map and shall be set for public hearing by the Director according to the procedures established for a hearing on the Tentative Map. The Director shall confine the hearing to consideration of, and action on, the proposed modification.

(b) **Form and Contents.** The amending map or certificate of correction shall be prepared and stamped by a registered civil engineer or licensed land surveyor. The form and contents of the amending map shall conform to the requirements for a Final Map, or a Parcel Map as provided in this Code and the SMA. The certificate of corrections shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

(c) **Submittal and Approval by Director.** The amending map or certificate of correction, complete as to final form, shall be submitted to the Director for review and approval. The Director shall examine the amending map or certificate of correction, and if the only changes made are those in Subsection (A), this fact shall be certified on the amending map or certificate of correction.

(d) **Filing with Recorder.** The amending map or certificate of correction certified by the Director shall be filed in the office of the Recorder in which the original map was filed. Upon such filing, the Recorder shall index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index respectively. The original map shall be deemed to have been conclusively so corrected, and shall impart constructive notice of all the corrections in the same manner as though upon the original map.

(e) **Fee.** The fee for checking, processing and recording the amended map or certificate of correction shall be as provided in Section 1615. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004; Ord. 7-05, File No. 041665, App. 1/8/2005)

ARTICLE 8: SECURITY, BONDS, TAXES

Sec. 1670. Security for Improvements.
Sec. 1671. Monument Bonds.
Sec. 1672. Payment of Taxes and Liens.

SEC. 1670. SECURITY FOR IMPROVEMENTS.

(a) The requirements of this Section apply to all improvement agreements.

(b) No Final Map or Parcel Map shall be signed by the Director or recorded until all improvement securities required by this Article in the form prescribed by the City pursuant to Government Code Section 66499 et seq., have been received and approved.

(c) A performance bond or other acceptable security as provided in Section 66499 of the Government Code in the amount of 100 percent of the estimated cost of completion of the construction, as determined by the Director, or installation of all public improvements, as determined by the Director, shall be required of all subdivisions to secure satisfactory performance of those obligations. As a guarantee of payment for the labor, materials, equipment and services required, a payment bond or other acceptable security shall be required for 50 percent of the estimated cost of completion of unfinished public improvements as determined by the Director. For purposes of the preceding sentences, the "estimated cost of completion" shall include all costs of remediating any hazardous materials as necessary to permit completion of the required public improvements, unless those costs are otherwise secured as provided in the Plan and Plan Documents.

(d) The security shall be released or reduced upon completion of construction as follows:

(1) The security shall be reduced to 10 percent of the original amount for the purpose of guaranteeing repair of any defect in the improvements which occurs within one year of when: (i) the public improvements have been completed to the satisfaction of the Director; and (ii) the Clerk of the Board of Supervisors certifies that no claims by any contractor, subcontractor or person furnishing labor, materials or equipment for the required public improvements have been filed against the City prior to or within a 100-day period following completion of the public improvements.

(2) If any claims by any contractor, subcontractor or person furnishing labor, materials or equipment to the Subdivider have been filed against the City, then the performance security shall only be reduced to an amount equal to the amount of all such claims filed or to 10 percent of the original amount whichever is greater.

(3) The security may be reduced in conjunction with completion of a portion of the public improvements to the satisfaction of the Director, to an amount determined by the Director; however, in no event shall the amount of the security be reduced below the greater of (i) the amount required to guarantee the completion of the remaining portion of public improvements and any other obligation imposed by the SMA, this Code or the improvement agreement; or (ii) below 10 percent of the original amount of the security.

(4) The security shall be released when all of the following have occurred.

(i) One year has passed since the date of acceptance by the Board of Supervisors, or one year has passed since the date that all deficiencies that the Director identifies in the required public improvements have been corrected or waived in writing; and

(ii) If any claims identified in Subsection (d)(1)(ii) have been filed against the City, all such claims have been satisfied or withdrawn, or otherwise secured. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1671. MONUMENT BONDS.

As a guarantee of good faith to furnish and install the required survey monuments and to pay the Subdivider's engineer or surveyor for said work, the Subdivider shall furnish a corporate surety bond or other acceptable security for an amount equal to 100 percent of the estimated cost of such work. Such work shall consist of satisfactorily furnishing and installing the said survey monuments and of accurately fixing exact survey points thereon. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

SEC. 1672. PAYMENT OF TAXES AND LIENS.

Prior to recordation of a Final Map or Parcel Map, the Subdivider shall comply with all applicable provisions governing taxes and assessments as set forth in Sections 66492, 66493 and 66494 of the SMA and any amendments thereto. (Added by Ord. 304-04, File No. 041544, App. 12/24/2004)

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